

**ALABAMA DEPARTMENT OF SENIOR SERVICES**

**Request for Proposals  
Alabama Department of Senior Services  
Vendor Fiscal Employer Agent (F/EA)**

**Issued:** April 18, 2016

**Proposal Due:** May 9, 2016

**Proposals Directed to:** Emily Marsal

**Street Address:**

**Alabama Department of Senior Services  
201 Monroe Street  
RSA Tower, Suite 350  
Montgomery, AL 36130**

**Mailing Address:**

**Alabama Department of Senior Services  
P.O. Box 301851  
Montgomery, AL 36130-1851**

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Vendor Fiscal Employer Agent  
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## REQUEST FOR PROPOSALS

BY

Alabama Department of Senior Services (ADSS)

The Alabama Department of Senior Services (hereinafter ADSS), is seeking interested Vendors who will be referred to as a Fiscal/Employer Agent to provide Financial Management Services (FMS), for people enrolled in the self-directed programs administered by ADSS as well as for additional programs administered by other state agencies of Alabama. Each individual state agency would contract directly with the vendor.

Eligible Vendors will be those corporations that operate as a Vendor Fiscal/Employer Agent (F/EA) FMS provider under Section 3504 of the IRS Code, Revenue Procedure 70-6 and have a demonstrated track record providing Vendor F/EA FMS in accordance with Federal Internal Revenue Service (IRS), Department of Labor (DOL), and State of Alabama Departments of Revenue and Industrial Relations rules and regulations.

Bidders must demonstrate they have, or can obtain, a separate Federal Employer Identification Number (FEIN), in addition to any corporate FEIN. This FEIN is to be used for the sole purpose of performing as Vendor F/EA FMS provider and filing certain federal tax forms such as IRS Forms 2678, 8821, 940, 941, 941X, Schedule R for 940 and 941, W-2, W-2(c) and W-3 and W-3(c) and paying federal income tax withholding, FICA (Medicare and Social Security) and Federal Unemployment Taxes (FUTA) on behalf of individuals and their representative for whom it represents as employer agent. Vendors cannot provide F/EA FMS to an individual to whom it also provides a direct program service funded through the Medicaid program. The selected Vendor must perform all F/EA FMS tasks directly and may not delegate any of the F/EA FMS tasks to a third party entity.

### 1. **Background Statement**

Consumer direction, or self-direction as it is also known, allows people to design their own support plans, choose the assistance they need to live full lives and control a personal budget for their supports. Individuals may use their individual budgets to hire their own staff and purchase individual-directed goods and services. Self-direction provides people the freedom to decide how to live their life and the authority and control over their resources and supports. When people direct their own supports, they also assume greater responsibility for their choices and decisions. The State of Alabama recognized the need to test the benefits and feasibility of providing individuals with more flexibility in the management of their home and community-based services based on feedback received through a series of focus groups held throughout the state.

In 2005, The Alabama Department of Senior Services applied for and was awarded grant funding from the Robert Wood Johnson Foundation to implement a pilot program (*Personal Choices*) of consumer-directed services for individuals that were enrolled in two of the State's Medicaid §1915(c) HCBS Waivers (Elderly and Disabled [E & D] and State of Alabama Independent Living [SAIL]). Beneficiaries from these waivers who lived in the following seven-county region in West Alabama

could elect to participate: Bibb, Fayette, Greene, Hale, Lamar, Pickens and Tuscaloosa. Participants of the *Personal Choices* Program receive an individual budget for personal care, personal assistance services, and certain other self-directed services through a Medicaid State Plan Option (1915(j)), while continuing to receive any other authorized services under the traditional 1915(c) Waiver program. The West Alabama Regional Commission (WARC) served as the local lead agency during the pilot phase of the program and was responsible for providing administrative and counseling services. The program started in August of 2007.

Due to the success experienced with the pilot program, ADSS decided to expand the program statewide.

ADSS is responsible for the administration of the *Personal Choices* program for clients enrolled in the Elderly and Disabled, 530 Waiver, Alabama Community Transition, and Technology Assisted Waiver Programs. The Alabama Department of Rehabilitation Services (ADRS) is responsible for the administration of the program for clients enrolled in the SAIL waiver. These two agencies will be the entities that disburse payment for vendor fees and client's spending budget. The vendor will work with the program's counselors for issues related to the enrollment of clients and management of the spending plan.

### 1.1 Potential Growth of Consumer Directed Programs

ADSS' experience has been that approximately 10-15 percent of eligible individuals enrolled in the waiver programs, opt to select the Personal Choices program as an option.

ADSS operates the Alabama Community Transition Waiver (ACT) which has a total of 200 slots. The ACT Waiver provides services to individuals with disabilities or long term illnesses who currently live in a nursing facility and who desire to transition to the home and community setting. A second population are individuals currently being served on one of Alabama's other HCBS waivers whose conditions is such that their current waiver is not meeting their needs and admission to an institution would be eminent if the ACT Waiver was not an option to meet their needs in the community. The ACT Waiver option is limited to the following services: personal care, homemaker, unskilled respite, companion services, and personal assistant service.

The current number of slots for all ADSS Waiver programs are as follows:

|                               |              |
|-------------------------------|--------------|
| <b>E &amp; D Waiver</b> ..... | <b>9,205</b> |
| <b>ACT Waiver</b> .....       | <b>200</b>   |
| <b>TA</b> .....               | <b>40</b>    |
| <b>530 Waiver</b> .....       | <b>150</b>   |

The TA Waiver program has requested an increase for slots in the current waiver. The SAIL program (operated by ADRS) slot number is **660**. Overall, this represents approximately **1,539** clients who might participate in Personal Choices if 15% of the population requests to be enrolled.

As part of the Aging and Disability Resource Grant, states can apply for the Veteran's Directed Home and Community-Based Service Program Option (VDHCBS) after a vetting process utilizing readiness assessments. ADSS has previously completed this process and developed protocol and guidelines for approval to operate this program with various Veterans' Health Care Centers throughout Alabama. This program will also be self-directed and requires the services of a Vendor F/EA FMS provider. If funds are allocated by the Department of Veteran's Affairs to an Alabama VHCC, this could also be an additional source of clients receiving F/EA services.

In addition to the above stated programs, Alabama anticipates growth in consumer-directed programs within other state agencies based on the direction of trends and national policy. Therefore, it is the intent of this RFP to also incorporate the option of expansion of Vendor F/EA FMS services to other state agencies such as the Alabama Medicaid Agency and the Alabama Department of Mental Health as the need for this service grows within the state.

## **2. Information for Bidders**

This Request for Proposal (RFP) is issued by ADSS. The purpose of the RFP is to solicit bids for the performance of services related to the *Personal Choices* program and other self-directed programs for this agency as well as other state agencies including Alabama Medicaid. It is the intent of this RFP to hire a contractor to provide the fiscal, payroll and invoice payment and reporting supports needed for individuals who self direct their own services. Only one contractor will be selected. Supports include, but are not limited to; customer service support in a variety of areas related to self-directed services, and provide individuals, the appropriate Area Agency on Aging and ADSS with a variety of payroll, invoice payment, and reports for budget management, Medicaid billing, and trend analysis. The Contractor should also have current experience with and the ability to develop a system that manages a variety of payer sources, either private funding or public funding such as that received from Medicaid, Medicare, Administration on Aging, or Veteran's Affairs. ADSS and ADRS are responsible for obtaining reimbursement monies from Medicaid. The vendor will submit an invoice for the client's monthly budget and administrative services to the respective agency and each agency will then forward the monies to the vendor.

The fiscal, payroll and invoice payment responsibilities of the Contractor include, but are not limited to:

- Establishing and maintaining a bank account for the sole purpose of receiving individuals' budget funds related to self-directed services and supports;
- Establishing and maintaining an accounting system to track individuals' budget funds received and disbursed in accordance with each person's authorized individual budget;
- Establishing current and archived records and files for individuals, representatives, support workers, vendors of goods and services, and the Vendor F/EA FMS provider in a secure, confidential and accurate manner and for the required length of time;

- Producing and distributing Individual/Representative-Employer Enrollment Packets and Support Worker Employment and Vendor Engagement Packet;
- Assisting individual/representative-employers in completing and submitting the forms and requested information included in the Individual/Representative-Employer Enrollment and Support Worker Employment and Vendor Engagement Packets;
- Assisting individual/representative-employers with understanding quarterly expenditure reports;
- Assisting individual/representative-employers in understanding procedures related to self-direction.
- Collecting and processing the contents of Individual/Representative-Employer Enrollment and Support Worker Employment and Vendor Engagement Packets;
- Assisting individuals with verifying support workers' citizenship or legal alien status;
- Conducting criminal background checks of support workers;
- Processing payroll, related federal and state taxes and end of year tax-related activities (including refunding over collected FICA, when necessary) in accordance with federal and state tax and labor requirements;
- Processing and paying invoices for individual-directed goods and services in accordance with individuals' authorized individual budget;
- Processing returned payments of any kind in accordance with Alabama Unclaimed Property Law;
- Obtaining and renewing workers' compensation insurance policies should an individual wish to purchase such insurance as provided for in clients' approved spending plans. Other related duties include paying premiums, providing wage information as requested to insurance carriers and being the site of the annual audit;
- Providing a variety of customer service supports, including but not limited to:
  - Providing orientation to individual/representative-employers on using Vendor F/EA FMS, being an employer and requirements;
  - Providing employer skills training to individuals/representative-employers as needed and requested;
    - Note: the Personal Choices Counselor will maintain the primary role for training individuals in providing personal care services.
  - Having a 24/7 toll free number with voice mail capabilities and fax.
  - Having a TTY line or other accommodations for communicating with individuals with hearing impairments;
  - Providing the option of internet/e-mail communications;
  - Providing web-based information regarding VF/EA FMS;
  - Having VF/EA FMS provider hours of operations for at least an eight (8) hour period Monday through Friday between the hours of 8 am and 6 pm CST/CDT except on federal and state holidays with a voicemail box activated for after hours receipt of messages;

- Responding to calls and complaints from individuals and representatives within one (1) business day;
- Providing information to individuals and representative (i.e., through brochure or information sheet) that includes, but is not limited to:
  - The roles and responsibilities of the individual, representative, VF/EA FMS provider and support worker.
  - VF/EA FMS services provided.
  - Hours of operation.
  - Key VF/EA FMS staff contact information.
  - Telephone, TYY and fax numbers.
  - Individual's Bill of Rights;
- Providing information and materials in alternate/large print format, when requested;
- Providing translation and interpreter services including American Sign Language and services for persons with limited English proficiency either in-house or through contract, when requested;
- Having and maintaining a system for receiving, responding to and tracking all correspondence, including complaints, from any source and maintain an automated log that addresses:
  - Who made the call.
  - Who received the call.
  - The reason for the call.
  - Action taken.
  - If any mandatory reporting occurred.
  - The final resolution of issue presented.
- Having and maintaining a system for reporting incidents, as defined by the ADSS, including any suspected or confirmed Medicaid fraud to ADSS and per ADSS procedures as a mandatory reporter.
- Having and maintaining a complaint and grievance and appeals process that includes:
  - An Advisory/Grievance Committee that includes individuals and representatives and meets either in person or via teleconference at least quarterly to discuss the provision of Vendor F/EA FMS and to evaluate any grievances filed or feedback provided by individuals and representatives.
  - Responds to calls and complaints from individuals and representatives within one (1) business day.
  - Tracks activities related to the receipt of complaints to include:
    - Who made the call.
    - Who received the call.
    - The reason for the call.
    - Action taken.
    - If any mandatory reporting occurred.
    - The final resolution of issue presented.

- Resolves individual and representative disputes, grievances and or VF/EA FMS-related complaints within five (5) business days of receipt of complaint.
- Provides monthly reports to ADSS outlining the complaints received and resolutions achieved.
- Preparing and distributing period reports including individual budget expenditure reports, annual expenditure reports, demographic information and Medicaid billing reports.
- Establishing and following Policies and Procedures for closing out accounts of clients who have been terminated from the program.

The Vendor F/EA FMS provider will provide support for the individual or his/her representative to manage and distribute funds contained in their individual budget. The Vendor F/EA will receive retrospective payment of the individual budgets for each individual enrolled in the *Personal Choices* program on a monthly basis.

Payment for vendor fees will be paid retrospectively on a per member per month basis upon receiving an invoice.

Services provided by the Contractor are described in detail under Scope of Services on page 9 and in the Appendix B of this RFP.

**Key Events**

|   |                            |
|---|----------------------------|
| 1. RFP Issue Date:                                    | April 18, 2016             |
| 2. Letter of Intent                                   | April 22, 2016             |
| 3. Electronic Questions Due                           | April 27, 2016             |
| 4. Final Response to Questions                        | April 29, 2016             |
| 5. Request for clarification of Response to Questions | May 6, 2016                |
| <b>6. Proposals Due</b>                               | <b>May 9, 2016 2:00 PM</b> |
| 7. Projected Contract Award by:                       | June 3, 2016               |
| 8. Projected Start of Services                        | September 1, 2016          |

**Electronic Question and Answer Period**

All questions will be accepted by email. Written questions should be emailed to **Emily Marsal at [emilyt.marsal@adss.alabama.gov](mailto:emilyt.marsal@adss.alabama.gov)**.

The writer should directly tie questions to the RFP. Questions should be asked in consecutive order, from beginning to end, following the organization of the RFP. Each question should begin by referencing the RFP, section heading, and page number to which it relates.

**CUT-OFF DATE FOR QUESTIONS AND INQUIRIES**

The cut-off date for questions and inquiries relating to this RFP is April 27, 2016. Questions will not be answered individually. A summary of all questions received will be compiled into one document and distributed to all proposed bidders.

Final release of responses to questions will be made by April 29, 2016. Any clarification request related to the Question Response Document must be submitted prior to the close of business on May 6, 2016.

In the event that it becomes necessary to clarify or revise this RFP, such clarification or revision will be by addendum. Addenda, if any to this RFP will be submitted electronically to each potential Vendor and shall become part of this RFP and part of any contract resulting from this RFP. It is the sole responsibility of the bidder to be knowledgeable of all addenda related to this procurement.

**SUBMISSION OF BID PROPOSAL**

In order to be considered for award, **one (1) original, five (5) hard copies, and one (1) electronic copy on CD or USB** of the bid proposal must be received by ADSS at the appropriate location by the required time. **ANY BID PROPOSAL NOT RECEIVED ON TIME AT THE DESIGNATED PLACE WILL BE REJECTED.**

**THE DATE, TIME AND LOCATION ARE:**

|  |  |
|--|--|
| <b>Proposal Due Date</b>   | <b>May 9, 2016</b>   |
| <b>Time</b>  | <b>2:00 PM</b>   |
| <b>Location</b><br><br><b>(Directions to ADSS can be obtained by calling 334-242-5743)</b> | <b><u>Delivered to:</u> Emily Marsal<br/>Alabama Department of Senior Services<br/>201 Monroe Street<br/>RSA Tower, Suite 350<br/>Montgomery, AL 36130<br/>or<br/><u>Mailed to:</u> Emily Marsal<br/>Alabama Department of Senior Services<br/>P.O. Box 301851<br/>Montgomery, AL 36130-1851</b> |

**BIDDER RESPONSIBILITY**

The bidder assumes sole responsibility for the complete effort required in this RFP. No special consideration shall be given after bids are opened because of a bidder's failure to be knowledgeable of all the requirements of this RFP. By submitting a bid proposal in response to this RFP, the bidder represents that it has satisfied itself, from its own investigation, of all the requirements of this RFP.

**COST LIABILITY**

State Agencies assume no responsibility and will bear no liability for costs incurred by bidders before the award of the contract resulting from this RFP.

**JOINT VENTURE**

If a joint venture is submitting a bid proposal, the agreement between the parties relating to such joint venture should be submitted with the joint venture's bid proposal. Authorized signatories from each party comprising the joint venture must sign the bid proposal.

## **AVAILABILITY OF FUNDS**

Any commitment of funds to selected vendor shall be contingent upon receipt and availability of funds for which a contract is made. In the event of the proration of the fund from which payment under the awarded contract is to be made, the contract will be subject to termination.

### **3. Scope of Services**

The Contractor shall meet with the representatives from ADSS and other partners as soon as possible upon the award of the contract at a date to be mutually agreed upon. At this meeting all aspects of program startup and operation shall be discussed and reviewed including initial training in the *Personal Choices* option, related procedures, budget guidelines and cost standards. At that time, ADSS will establish with the contractor a regular set of meetings and/or telephone conferences to assess the progress of the contractor during the start up period.

The Contractor will perform as the Vendor F/EA FMS provider on behalf of ADSS, other state agencies, and individuals enrolled in both current and future self-directed programs, and their representatives, as appropriate, in accordance with Section 3504 of the IRS Code, Revenue Procedure 70-6 and in accordance with ADSS requirements. The Contractor will be responsible for processing and receiving the results of background checks on support workers seeking employment from individuals enrolled in the programs and their representatives, as applicable. Cost for the first two background checks for a client will be borne by the Contractor; the cost of any subsequent background checks will be borne by the client's budget.

The Contractor must be willing and able to complete the required tasks and demonstrate that it has in place, or describes its plan to ensure, effective systems, policies, procedures and internal controls to perform the required tasks successfully. This information should be contained in a comprehensive Vendor F/EA FMS Policies and Procedures Manual that is Alabama-specific and available in an electronic format. The tasks described in this RFP meet minimum standards and may be further delineated as other future opportunities require additional tasks. The required tasks are described in Attachment B: *Tasks to Be Performed by a Vendor Fiscal/Employer Agent (F/EA) Operating Under Section 3504 of the IRS Code and the Rev. Proc. 70-6, as Modified by Rev. Proc. 2013-39* prepared by Susan A. Flanagan Ph.D. and provided to the State of Alabama by the Cash and Counseling National Program Office. Proposers should read this document in detail and discuss each of the requirements in their response. Please note that Alabama does not currently use reporting agents or sub-agents in the proposed programs represented in this document. However, information on any questions referring to this will be of interest should reporting agents or sub-agents be considered in the future for the State. The key tasks include:

**KEY TASK ONE:**                      Obtaining Federal and State Approval to be a Vendor/  
FEA FMS provider.

**KEY TASK TWO:** Preparing and Distributing Individual Enrollment and Worker Employment Packages and Collecting and Processing Required Information and Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packets and Collecting and Processing Required Information and Documents.

**Note:** The Vendor would be responsible for developing/distributing forms applicable for information required for the services the Vendor provides. ADSS's Counselor is responsible for educating the client regarding the required forms for program enrollment and assisting with the development of the spending plan/budget.

**KEY TASK THREE:** Management of Individuals' Budget Funds and Invoicing the PDS Program Agency or Other Designated Entity for Support Services and VF/EA FMS Rendered.

**KEY TASK FOUR:** Payroll Process.

**KEY TASK FIVE:** End of Year Federal Tax Process.

**KEY TASK SIX:** Processing Payment for Independent Contractors who Provide Services and Supports to Individuals and their Representatives.

**Note:** The vendor remits direct payments to entities that will submit invoices; otherwise, payment is based on receipts provided by the client; payment may only be made for goods or services authorized under an approved spending plan. Payment is made from client budget funds.

**KEY TASK SEVEN:** Customer Service System.

**KEY TASK EIGHT:** Records Management Process.

**KEY TASK NINE:** Brokering Workers' Compensation Insurance.

**Note:** In the State of Alabama, individuals are allowed to decide whether or not to purchase this insurance with the assistance of the VF/EA FMS organization.

**KEY TASK TEN:** Preparing and Maintaining a VF/EA FMS Policies and Procedures Manual and Staying Up-to-Date with Federal and State Rules and Regulations Regarding Vendor F/EA FMS Providers and Household Employers.

**KEY TASK ELEVEN:** Managing Invoices for Goods and Services Rendered and Included in Individuals' Service Plans and Budgets.

**KEY TASK TWELVE:** Preparing and Submitting the Required Reports to State/County Government and Individuals/Representatives.

**KEY TASK THIRTEEN:** Procedure for the Treatment of Federal Taxes When Individuals Change F/EA FMS Provider During a Calendar Tax Year.

The contractor must be prepared to participate in a Vendor F/EA FMS Provider Readiness Review if deemed necessary by ADSS to be conducted prior to beginning services to ensure that all Vendor F/EA FMS systems, policies, procedures and internal controls are in place and documented.

#### **4. Financial Audit Requirements**

1. A copy of the most recent financial statement, with an opinion letter from a CPA with a valid license, is required as a part to the RFP proposal.
2. Participating State and Federal Agencies, the Chief Examiner of Public Accounts, or any of their duly authorized representatives shall have access to any pertinent books, documents, papers, and records of the contractor relevant to this contract to make audits, financial reviews, examinations, excerpts, and transcripts. Pertinent records are those dealing with all financial and other records pursuant to this contract.
3. Vendors must submit a cost report at the conclusion of the contract, if requested by ADSS.

#### **5. Records**

Maintain other such records and information required in a secure and confidential manner including but not limited to: copies of timesheets, phone logs, summaries of complaints with resolution noted, documentation related to the withholding, filing, payment of FICA, FUTA/SUTA, federal and state income tax withholding, wages and year-end tax filings in compliance with federal and state DOL rules and in the form and manner prescribed by ADSS. Program participants' and employees' records must be available for immediate review by participating agencies. Records must be made available in Alabama within seven (7) days when requested by an agency.

## **6. Federal Funds and Confidentiality Responsibilities**

1. State funds allocated to individuals through the self-determination initiative are eligible for federal match to the State of Alabama through Federal programs;
2. The Contractor must agree to follow the privacy practices as outlined by Health Insurance Portability and Accountability Act of 1996. The contractor shall take measures to ensure that access to information will be limited to the contractor. The contractor shall take measures to prudently safeguard and protect unauthorized disclosure of any protected information in its possession;
3. The Contractor agrees not to release any information regarding the individual to any entity or person other than the responsible state agency without the expressed written consent of the individual/representative;
4. The Contractor shall establish internal policies to ensure compliance with federal and state laws and regulations regarding confidentiality;
5. The contractor will not provide, grant, allow or otherwise offer access to information without express written permission of the responsible state agency;
6. The Contractor will assume all liabilities under both Federal and State law in the event that the information is disclosed in any manner;
7. Upon receiving any request for information from any individual, entity, corporation, partnership or otherwise, the contractor must notify the appropriate staff within twenty-four (24) hours. The contractor will ensure that there will be no disclosure of data except through the responsible state agency and;
8. In cases where the information requested by outside sources is releasable under the Freedom of Information Act (FOIA), as determined by the responsible state agency, the Contractor shall provide support for copying and invoicing such documents.

## **7. Contract Period**

The contract period is projected to be for two years starting September 1, 2016.

## **8. Contract Award Procedures**

The State of Alabama is an Equal Opportunity and Affirmative Action employer and does not discriminate in its hiring, employment, or business practices. ADSS is committed to complying with the Americans with Disabilities Act of 1990 (ADA) and does not discriminate on the basis of disability, in admission to, access to, or operation of its programs, services, or activities.

A Selection Committee composed of representatives from ADSS and other designees as deemed appropriate will review all proposals. Vendors may be required to participate in one or more interviews with the Selection Committee, which may be conducted in person or by telephone. Any such requirement for interviews will be at the discretion of the Selection Committee.

## **9. Proposal Requirements**

All proposals must follow the required format described below in 9.1 through 9.9. Vendors should address all requirements listed in the prescribed order and using the prescribed numbering system. At ADSS's discretion, failure to do so will result in disqualification. Please provide an original and five copies of the proposal as well as an additional electronic copy. Any and all questions not completely answered will be deemed as not meeting that requirement and may result in the disqualification of the proposal.

**9.1 Information about the Vendor.** The following information and forms must be provided as part of the submittal:

### **A. Description of the Vendor's Organization**

### **B. Relevant Experience**

**1. Experience:** The Vendor must include all relevant background and experience related to the work outlined in the Scope of Services included in this RFP. Please list all states where you have and currently operate as a Vendor F/EA FMS provider. Emphasis should be on activities relevant and related to the Scope of Services included in this RFP. Additionally, please list any contracts in the last three (3) years between the Vendor and any agency of the State of Alabama.

**2. References:** Include at least three references. A list of contact names and phone numbers is preferred. When available, include references from states where the Vendor has operated as a Vendor F/EA FMS provider for at least one (1) year. Reference letters may be included as attachments to the proposal, if available.

**9.2 Statement of Work:** Vendors must include a work plan covering each of the categories in the Scope of Services beginning on page 9. The work plan includes, at a minimum, the services and tasks to be achieved, including descriptive details and the professional staff who will perform the work. The Work Plan must be presented in the exact order as delineated in the Scope of Services and include each Key Task category numbered I through XIII. Vendors may add tasks (and their deliverables) to those identified in the Scope of Services at the end of each outlined phase provided such new tasks are clearly identified and separated from the specific tasks in the scope of work. The Vendor must include a proposed timeline for meeting the schedule outlined in this RFP as well as for completing the required routine tasks on an on-going basis. The timeline may be included in the response to this section or as a separate attachment.

**9.3 Personnel Listing:** A complete listing of the professional staff identified in the work plan with their resumes. Each resume shall include the individual's qualifications and experience in the area of responsibility.

**9.4 Proof of Enrollment** with Alabama Medicaid Agency Fiscal Agent HPES.

**9.5 Line of Credit:** Vendors must submit documentation that they have a line of credit of at least \$500,000 or a sufficient amount to pay their expenses to administer Vendor F/EA FMS services for a period of at least three (3) months.

**9.6 Audit:** A copy of the most recent financial statement, with an opinion letter from a CPA with a valid state license, is required as a part to the RFP proposal.

**9.7 FEIN:** Vendors must demonstrate they have a separate FEIN from their company or business, for the sole purpose of filing certain federal forms and filing and paying certain federal taxes in hardcopy or electronically, (i.e., IRS Forms 2678, 8821, 941, 941(X), 940, Schedule R for the IRS Form 941 and 940, W-2, W-2(c), W-3, W-3(c)).

**9.8 Conflict of Interest:** Disclose any current (within the last three (3) years) business relationships which may pose a conflict of interest.

**9.9 Additional Data:** The Vendor should include any additional information relevant to this RFP that it wishes to bring to the attention of ADSS.

## **10. Phase One Evaluation Criteria**

The following criteria are expected to be among those used in the selection process and are presented as a guide for the Vendor in understanding ADSS's requirements and expectations for this RFP and are not necessarily all-inclusive. ADSS reserves the right to accept a response that based upon their sole judgment, sufficiently demonstrates the ability to serve as a Vendor F/EA FMS provider for the purposes of the *Personal Choices* program and for other future self-directed programs of other State Agencies. ADSS also reserves the right to interview any or all respondents and/or to request additional information for clarification purposes of submitted proposal.

Criteria weighting is as follows:

**10.1** Proposed Statement of Work (60%). Emphasis will be on understanding the role of the Vendor F/EA FMS Provider and all of the specific needs of each user; the individual and family, the case manager/broker, ADSS procedures and information management, Medicaid Waivers, accounting and auditing of state dollars, qualified vendors and individual providers. Documentation should also demonstrate the Vendor's ability to complete the tasks and meet the necessary demands of each phase of work within the required time frame.

**10.2** Experience, expertise, and capabilities of the Vendor (40%). Emphasis will be on the demonstrated track record of the Vendor for services that are specified in the scope of work. The ability of the Vendor to understand information systems will also be considered. Background, qualifications, and previous experience of personnel to be assigned to the project and their demonstrated competence, experience and expertise in the type of work to be performed may also be evaluated.

**In order to meet the minimum requirements for a responsive proposal, Vendors must have a score of at least 80, defined as 80% of the aggregate**

**potential scores of Sections 10.1 and 10.2. Section 10.1 has a potential total score of 60 points, while the potential total score of Section 10.2 is 40.**

**11. Phase Two Evaluation Criteria (Budget)**

Upon determining that a vendor has met the minimum requirements and has received at least a score of 80, ADSS will then review the Vendor's proposed budget as Phase Two of the RFP evaluation process. The Vendor should propose a fee schedule that is consistent with practices customary to Cash and Counseling type programs throughout the nation. One common practice, for example, is to charge a one-time per individual enrollment fee to cover costs of setting up individual files and accounts and then a monthly per individual fee for ongoing expenses. ADSS is willing to entertain other approaches that are cost effective and otherwise meet the requirements of this RFP. Higher consideration will be given to those who can demonstrate a sliding or other fee schedule that reflects economies of scale. Please provide the fee schedule as a separate attachment to the proposal.

**Given the small enrollment and scope of the current *Personal Choices* programs, potential Vendors should be aware that offers that propose large start-up fees cannot be considered.**

The Contract will be awarded to the Vendor who is determined to have met the minimum requirements and proposed the most favorable budget according to the needs of the program.

**Appendix A**  
Letter of Intent

**Return to:** Emily Marsal

**Street Address:** Alabama Department of Senior Services  
201 Monroe Street  
RSA Tower, Suite 350  
Montgomery, AL 36130

**Mail Address:** Alabama Department of Senior Services  
P.O. Box 301851  
Montgomery, AL 36130-1851

**Telephone:** 334-242-5743

**FAX:** 334-242-5594

**Email:** [Emilyt.marsal@adss.alabama.gov](mailto:Emilyt.marsal@adss.alabama.gov)

**Return by:** 2:00 PM, April 22, 2016

The organization indicated below intends to reply to the following Request for Proposal:

**STATE OF ALABAMA**  
**Alabama Department of Senior Services**  
**Cash and Counseling Program Staff**  
**Request for Proposals**  
**Vendor Fiscal/Employer Agent (F/EA) Financial Management Service (FMS)**  
**Provider**

It is understood that submission of this form does not bind the organization to submit a proposal.

Organization Name:

Mailing Address:

Contact Person:

Telephone:

Email:

FAX:

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**Signature**

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**Title**

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**Date**

4/18/2016

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## Appendix B

### **Tasks to Be Performed by a Vendor Fiscal/Employer Agent (VF/EA) Financial Management Services (FMS) Organization Operating Under Section 3504 of the IRS Code and Rev. Proc. 70-6, as Modified by Rev. Proc. 2013-39<sup>1</sup>**

Section 3504 of the IRS code authorizes the Secretary of the Treasury to promulgate regulations to authorize a fiduciary, agent or other person (“agent”) who has the control of, receives, has custody of, disposes of, or pays the wages of an employee or group of employees, employed by one or more employees, to perform certain specified acts required of employees. Under section 3504 of the IRS code, all provisions of law (including penalties) applicable with respect to an employer are applicable to the agent and remain applicable to the employer. Accordingly, both the agent and the employer are liable for employment taxes and penalties associated with the employer’s employment tax obligations under the agent (IRS Rev. Proc. 2013-39).

There are a number of tasks entities must perform when operating as a Vendor Fiscal/Employer Agent Financial Management Service (VF/EA FMS) organization under section 3504 of IRS code, Revenue Procedure 70-6 and as modified by IRS Rev. Proc. 2013-39. The purpose of this document is to provide information that will assist:

- Federal, state and local government PDS program agencies in developing standards for provider certification, request for proposals (RFPs and similar solicitation vehicles) and administrative contracts for VF/EA FMS and protocols for assessing a VF/EA FMS organization’s initial readiness (or certification) to perform the VF/EA FMS organization function and for assessing; and monitoring its ongoing performance (recertification); and
- Assist entities who wish to operate as VF/EA FMS organizations and/or to review their current VF/EA FMS operations (systems and written policies, procedures and internal controls).

### **GENERAL REQUIREMENTS**

#### ***Preparing and Maintaining a VF/EA FMS Organization Policies and Procedures Manual***

All VF/EA FMS organizations should be required to prepare and maintain a state/participant-directed service (PDS) program-specific *VF/EA FMS Policies and*

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<sup>1</sup> This information is based on IRS documentation related to VF/EA FMS organizations, discussions with central and regional office IRS employment tax staff and best practices identified from VF/EA FMS organization operations. This information is subject to change based on future IRS policy clarification/changes related to VF/EA FMS organizations and household employers who hire domestic service workers to provide support services and use a VF/EA FMS organization to manage the payroll and bill payment functions.

*Procedures Manual.* This Manual describes the policies, procedures and internal controls for all tasks related to the VF/EA FMS function (including reporting agent or subagent role and tasks if used) in a specific state and for a specific program. The Manual should be updated at least annually and as needed. Also, it is recommended that the Manual be developed in an electronic/read-only format so that VF/EA FMS staff can readily access it and the VF/EA FMS can make it available to PDS program staff when requested.

If a VF/EA FMS organization contracts with and delegates VF/EA FMS tasks to a reporting agent or a subagent, the VF/EA FMS organization's Policies and Procedures Manual should clearly describe the tasks performed by the VF/EA FMS organization, the reporting agent or subagent, and any overlapping tasks and communication and data transmission tasks and tasks perform when the VF/EA FMS organization is monitoring the reporting agent's or subagent's ongoing performance. The reporting agent or subagent also should have a state/program-specific policies and procedures manual for the tasks it will be performing on the VF/EA FMS organization's and individuals'<sup>2</sup> behalf in a particular state or for a specific PDS program (See Section X).

### ***Staying Up-to-Date with Federal and State Tax, Labor, Immigration Workers' Compensation and Program Requirements***

VF/EA FMS organizations must have policies, procedures and internal controls in place to stay up-to-date with federal and state tax, labor, citizenship and immigration, workers' compensation (and mandatory disability insurance in the five states where it is applicable – CA, HA, NJ, NY and RI) and program regulations to perform effectively as a VF/EA FMS organization and limit any risk of liability as a result of noncompliance. For example, Federal and state tax procedures forms and instructions can change without prior notice. Reviewing applicable agency web sites on a monthly basis is essential for staying up-to-date in these areas (See Section X).

### ***Obtaining a Separate FEIN for Federal Tax Filing and Payment Purposes***

Entities performing as VF/EA FMS organizations must obtain a separate Federal employer identification number (FEIN) for the sole purpose of filing certain federal employment tax forms and making certain federal tax payments. This FEIN really acts as a "dummy" FEIN and is obtained in addition to a VF/EA FMS organization's corporate FEIN. ***IRS has stated that a VF/EA FMS organization should use this separate FEIN for filing and paying federal taxes and related federal forms for all participants, programs and states in which it operates as a VF/EA FMS organization.*** This separate FEIN should not be used for processing wages and related federal forms and taxes for employees of the parent organization or sub entity.

A ***reporting agent*** uses the VF/EA FMS organization's separate FEIN when performing agent tasks on behalf of a VF/EA FMS organization.

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<sup>2</sup> For the purpose of this document, the term "individual" refers to the employer whether it's the individual program participant or his/her designated representative, as appropriate.

A **subagent** uses its separate FEIN when performing agent tasks on behalf of a VF/EA FMS organization.

It should be noted that when a VF/EA FMS organization is a §501(c) (3) entity, having a separate FEIN allows the entity to file FUTA on behalf of the individuals it represents as their agent. Typically, a §501(c) (3) entity is exempt from paying FUTA for its employees.

IRS identifies home care service recipients (HCSRs) or individual/representative-employers and their VF/EA FMS organization using an 18 digit identifier. The 18 digit identifier is created by combining the individual/representative-employers FEIN with the VF/EA FMS organizations separate FEIN.

### ***VF/EA FMS Organizations Contracting with and Delegating Tasks to a Reporting Agent***

The Form 2678, *Agent/Payment Authorization*, states that VF/EA FMS organizations may contract with a third party, such as a reporting agent or certified public accountant, to prepare or file the returns covered under its authorized appointment or to make any required payments. IRS defines a reporting agent as:

*An accounting service, franchiser, bank<sup>3</sup>, service bureau, or other entity authorized to perform one or more of the following functions:*

- *Sign and file electronically Forms 940 and 941;*
- *Sign and file on paper Forms 945, 1042, 940 and 941-PR, 941-SS, 943, 943-PR., and Form CT-1; and*
- *Make FTDs and FTPs and submit FTD and FTP information electronically for the taxes reported on the Form 720, 940, 941, 943, 945, 990-C, 990-PF, 990-T, 1041, 1042, 1120 and Form CT-1.*

Such a contract may authorize the IRS to disclose confidential tax information of the employer/payer and the agent to the third party. The IRS has prescribed the Form 8655, *Reporting Agent Authorization* as the appropriate authorization form for a taxpayer or VF/EA FMS organization to use to designate a reporting agent.

The IRS Form 2678, *Employer/Payer Appointment of Agent* (version 8/2014) discusses the issue of reporting agent liability for any unfulfilled federal tax obligations including penalties and interest. The IRS states that if the third party (the reporting agent) fails to file the returns or make the payments, the VF/EA FMS organization (the agent) and the employer/payer (the individual) remains liable (***two-way level of liability***). The reporting agent does not assume any liability related to its performance. Many states take a similar position regarding reporting agents as it relates to state income tax withholding and employment tax filing and payment requirements.

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<sup>3</sup> The IRS Office of General Counsel for Employment Tax staff has reported that credit unions are not considered “banks” under this definition.

VF/EA FMS organizations using reporting agents to perform some of the agent tasks on the VF/EA FMS organization's behalf must:

- Execute an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent for the purpose of filing IRS Forms 940, 941 and W-2.

VF/EA FMS organizations should:

- Execute an IRS Form 8821, *Tax Information Authorization*, between the individual and the VF/EA FMS organization that includes the reporting agent as the second appointee (***no longer required but best practice for effective communication with the IRS***); and
- Execute a signed informed consent statement with each individual the VF/EA FMS organization represents that states that the individual/ representative-employer understands the VF/EA FMS organization is using a reporting agent to perform some of the agent tasks; understands the reporting agent's liability for any unfulfilled federal and state tax obligations including penalties and interest (i.e., none); lists the tasks being performed by the VF/EA FMS organization and the reporting agent; and concurs with the VF/EA FMS organization's use of a reporting agent.

The VF/EA FMS organization should include a section in its state/program-specific VF/EA FMS Policies and Procedures Manual that describes the policies, procedures and internal controls for using the reporting agent, including communication flow and provision of data with all methods used HIPAA compliant; the roles and responsibilities of the VF/EA FMS organization and the reporting agent; and how the VF/EA FMS organization will monitor the reporting agent's performance to determine compliance.

### ***VF/EA FMS Organizations Contracting with and Delegating VF/EA FMS Tasks to a Subagent***

IRS Rev. Proc. 2013-39 issued in December 2013 allows VF/EA FMS organizations to contract with delegate agent tasks to a subagent in addition to a reporting agent. In the case where a VF/EA FMS organization delegates agent tasks to a subagent, there is a three-way level of liability for non-compliance with IRS requirements that includes the VF/EA FMS organization, the subagent and the individual.

When a VF/EA FMS organization contracts with and delegates agent tasks to a subagent, IRS requires the subagent to use its separate FEIN to file and pay federal taxes and related forms.

VF/EA FMS organizations should:

- Execute an IRS Form 2678, *Employer/Payer Appointment of Agent* between the VF/EA FMS organization and the subagent, and

- Execute an IRS Form 8821, *Tax Information Authorization*, between the individual and the VF/EA FMS organization that includes the subagent as the second appointee (***no longer required by the IRS but best practice for effective communication with the IRS***).

The VF/EA FMS organization should include a section in its state/program-specific VF/EA FMS Policies and Procedures Manual that describes the policies, procedures and internal controls for using the subagent, including communication flow and provision of data with all methods used HIPAA compliant; the roles and responsibilities of the VF/EA FMS organization and the subagent; and how the VF/EA FMS organization will monitor the subagent's performance to determine compliance.

Although not an IRS requirement, it is recommended that the VF/EA FMS organization execute a signed informed consent statement with each individual/ representative-employer the VF/EA FMS organization represents that states that the individual/ representative-employer understands the VF/EA FMS organization is using a subagent to perform some of the agent tasks; understands the subagent's liability for any unfulfilled federal and state tax obligations including penalties and interest; lists the tasks being performed by the VF/EA FMS organization and the subagent; and concurs with the VF/EA FMS organization's use of a subagent.

### ***When Does a VF/EA FMS Organization's Liability for Filing and Depositing Federal Taxes Begin?***

The October 2007 IRS Form 2678 instructions state that a VF/EA FMS organization is not liable for filing any federal tax returns or making any deposits or payments until it receives approval from the IRS (IRS 1997C Letter) to act as an agent for an individual. So during the period from when the agent files the IRS Form 2678 for an individual until the agent receives IRS authorization (IRS 1997C Letter) to be the agent for that individual, then entity that engages the VF/EA FMS organization (i.e., state program agencies, aging and disability network agency) **should require in the contract executed with or in an executed agreement with the VF/EA FMS organization**, that the VF/EA FMS organization be responsible for filing and depositing federal taxes (federal income tax withholding, Medicare and Social Security (FICA) and federal unemployment insurance taxes (FUTA) and any unfulfilled federal tax obligations, including penalties and interest) and any liability as a result of non-compliance.

### ***DOL Home Care Rule and Joint Employment as it Applies to VF/EA FMS Organizations***

DOL Administrative Interpretation 2014-2, Section II, #5 *Perform Payroll and Other Administrative Functions* states that

*Functions that are similar to the tasks performed by commercial payroll agents for businesses, such as maintaining records, issuing payments, addressing tax withholdings, and ensuring that workers' compensation insurance is maintained for*

*the worker on behalf of the consumer, are weak indicators that the entity is an employer.*

However, if the PDS program has the VF/EA FMS organization perform employer tasks other than those described above, it may present a stronger indicator that the VF/EA FMS organization is a joint employer. The briefing paper prepared by Lucia Cucu, JD and Mollie Murphy in November 2014 for the National Resource Center for Participant-directed Services (NRCPS) entitled, *An Overview of the Department of Labor Home Care Rule for VD-HCBS* is a good resource for understanding this issue and is available on the website.

The remaining VF/EA FMS organization tasks are described in the balance of this document. Please note that depending on the operational approach use by a program agency, the VF/EA FMS organization or its reporting agent or subagent may be performing these tasks.

## **I. KEY TASK ONE: Obtaining Federal And State Approval To Be A VF/EA FMS Organization**

1. Does the VF/EA FMS organization have a separate FEIN specifically to file the IRS Form 2678, *Employer/Payer Appointment of Agent* and other federal tax forms and to file and make federal tax payments on individuals' behalf?
2. Does the VF/EA FMS organization have a system in place for obtaining a federal employer identification number (FEIN) for each individual it represents as agent and for maintaining copies of the individual's FEIN, IRS FEIN notification and the filed IRS Form SS-4, *Application for Employer Identification Number* in each individual's file?
3. Does the VF/EA FMS organization have written policies and procedures for obtaining a federal employer identification number for each individual it represents and for maintaining copies of the individual's FEIN, IRS FEIN notification letter and the filed IRS Form SS-4, *Application for Employer Identification Number* in each individual's file?
4. Does the VF/EA FMS organization have a system in place for retiring individuals' FEINs when they are no longer employers (permanently)?<sup>4</sup>
5. Does the VF/EA FMS organization have written policies and procedures for retiring individuals' FEINs when they are no longer employers?
6. Does the VF/EA FMS organization have internal controls documented and in place to monitor the FEIN process, including receipt and retirement of individuals' FEINs, including making sure that all individuals have FEINs and the documentation is maintained in each individual's file?

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<sup>4</sup> In the letter, the IRS specifically would like to know if the individual for whom the FEIN is being retired, is deceased.

7. Does the VF/EA FMS organization have a system in place for preparing and submitting a signed IRS Form 2678: *Employer/Payer Appointment of Agent* for each individual it represents and for maintaining documentation (copy of IRS Form 2678, and IRS LTR 1997C) in each individual's file?
8. Does the VF/EA FMS organization have written policies and procedures for submitting an IRS Form 2678 and for maintaining documentation (copy of IRS Form 2678 and IRS LTR 1997C) in each individual's file?
9. Has the VF/EA FMS organization received written authorization (IRS LTR 1997C) from the IRS to be the Agent for each individual it represents and does it have a copy of the written authorization in each individual's file?<sup>5</sup>
10. Does the VF/EA FMS organization have a system in place for revoking the IRS Form 2678 for each individual it no longer represents in accordance with IRS requirements and for maintaining documentation (copy of the IRS Form 2678 completed for revocation and the IRS LTR 4228C acknowledging the revocation) in each individual's file?
11. Does the VF/EA FMS organization have written policies and procedures for revoking the IRS Form 2678 for each individual it no longer represents in accordance with IRS requirements and for maintaining documentation (copy of the IRS Form 2678 completed for revocation and the IRS LTR 4228C acknowledging the revocation) in each individual's file?
12. Does the VF/EA FMS organization have internal controls documented and in place to monitor the preparation and submission and revocation of IRS Forms 2678 in accordance with IRS requirements, and the receipt of IRS approval for all individuals it represents and for maintaining documentation (copy of the IRS Form 2678 completed for revocation and the IRS LTR 4228C acknowledging the revocation) in each individual's file?
13. Does the VF/EA FMS organization have a system in place for filing a signed IRS Form 8821, *Tax Information Authorization* for each individual it represents and for maintaining copies of the Form in each individual's file?<sup>6</sup>

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<sup>5</sup> Agent authorization is effective on the date on the IRS authorization notice. Until that date, IRS does not consider the VF/EA FMS organization liable for any unfulfilled federal tax obligations including penalty and interest. Therefore, it is important that the administrative contract and another type of agreement is executed by the PDS program agency and the VF/EA FMS organization holds the VF/EA FMS organization liable for any unfulfilled federal and state tax obligations for the entire contract period including the time from when the VF/EA FMS organization is waiting to receive authorization from the IRS to be an agent for an individual until it is received (receipt of IRS 1997C LTR).

<sup>6</sup> At the FMS Conference in Baltimore, MD on November 14, 2011, IRS staff reported that VF/EA FMS organizations only had to complete and file IRS Forms 8821 when they were needed. However, due to the nature of communicating with the IRS on tax filing and payment issues, it is best practice for VF/EA FMS organizations to file, submit and renew IRS Forms 8821 for each individual they represent as agent. In addition, VF/EA FMS organizations should consider listing all of the forms it regularly files or may file with the IRS on the IRS Form 8821 including IRS Form 940 and Schedule R, Form 941 and Schedule R and Schedule B, Form 941-X, Form W-2 and W-2(c), and Form W-3, and W-3(c). If the VF/EA FMS organization contracts with and

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14. Does the VF/EA FMS organization have written policies and procedures for preparing and filing IRS Forms 8821 and for maintaining copies of the Form in each individual's file?
15. Does the VF/EA FMS organization have a system in place for renewing IRS Forms 8821 for each applicable individual at the appropriate time and for maintaining copies of the renewals in each individual's file?
16. Does the VF/EA FMS organization have written policies and procedures for renewing IRS Forms 8821 for each applicable individual at the appropriate time and for maintaining copies of the renewals in each individual's file?
17. Does the VF/EA FMS organization have a system in place for revoking an IRS Form 8821 when the Agent no longer represents the individual and for maintaining documentation in each individual's file?<sup>7</sup>
18. Does the VF/EA FMS organization have written policies and procedures for revoking the IRS Form 8821 when the Agent no longer represents the individual and for maintaining documentation in each individual's file?
19. Does the VF/EA FMS organization have internal controls documented and in place to monitor the process for obtaining, filing, renewing and revoking IRS Forms 8821 and maintaining documentation in each individual's file?
20. Does the VF/EA FMS organization have a system in place for obtaining a state power of attorney (for state income tax, unemployment tax or both, as required by the state) from each individual it represents, and for maintaining documentation in each individual's file?<sup>8</sup>
21. Does the VF/EA FMS organization have written policies and procedures for obtaining a state power of attorney (for state income tax, unemployment tax or both, as required by the state) from each individual it represents, and for maintaining documentation in each individual's file?

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delegates agent tasks to a reporting agent or subagent, it should include the name of a staff person at the reporting agent or subagent on the IRS Form 8821 as the second appointee.

<sup>7</sup> IRS Form 8821 instructions require a current original signature on forms that are revoked. This can be a problem for VF/EA FMS organizations, particularly if the individual is deceased. One possible solution to this problem might be for the VF/EA FMS organization to obtain two forms with original signatures, one dated and one not dated to be used when the form is revoked in the future. If individual is deceased, then it should be noted on a copy of the most recent form executed that includes the individual's signature.

<sup>8</sup> If the VF/EA FMS organization uses a reporting agent (e.g., payroll processor) or subagent, it should have a discussion with the relevant state tax agency staff about who should hold the state power of attorney, the VF/EA FMS organization or the reporting agent or subagent or both.

22. Does the VF/EA FMS organization have a system in place for revoking a state power of attorney (for state income tax, unemployment tax or both, as required by the state) when it no longer represent an individual, and for maintaining documentation in each individual's file?
23. Does the VF/EA FMS organization have a written policies and procedures for revoking a state power of attorney (for state income tax, unemployment tax or both, as required by the state) when it no longer represent an individual, and for maintaining documentation in each individual's file?
24. Does the VF/EA FMS organization have internal controls documented and in place to monitor the execution and revocation of state powers of attorney forms (for state income tax, unemployment tax or both, as required by the state) for each individual it represents, and maintaining documentation in each individual's file?
25. If the VF/EA FMS organization uses a reporting agent to perform some of the agent tasks, does it have a system in place for executing an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent and for maintaining documentation in each individual's file?
26. If the VF/EA FMS organization uses a reporting agent to perform some of the agent tasks, does it have a written policy and procedure in place for executing an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent and for maintaining documentation in each individual's file?
27. If the VF/EA FMS organization uses a reporting agent to perform some of the agent tasks, does it have a system in place for revoking an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent when it no longer uses a reporting agent and for maintaining documentation in each individual's file?
28. If the VF/EA FMS organization uses a reporting agent to perform some of the agent tasks, does it have a written policy and procedure in place for revoking an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent when it no longer uses a reporting agent and for maintaining documentation in each individual's file?
29. If the VF/EA FMS organization uses a reporting agent to perform some of the agent tasks, does it have an internal control documented and in place to monitor the receipt and revocation of an IRS Form 8655, *Reporting Agent Authorization* between itself and the reporting agent and for maintaining documentation in each individual's file?
30. If the VF/EA FMS organization uses a reporting agent or subagent to perform some of the agent tasks, does it have a system in place for obtaining a signed informed consent statement from each individual the VF/EA FMS organization represents stating that the

individual knows the VF/EA FMS organization is using the reporting agent or a subagent to perform some of the agent task; lists the tasks the reporting agent or subagent will perform, describes the reporting agent's or subagent's liability for any unfulfilled federal and state tax obligations including penalties and interest; and states that the individual concurs with the VF/EA FMS organization's use of a reporting agent or subagent and for maintaining the signed statement in each individual's file?

31. If the VF/EA FMS organization uses a reporting agent or subagent to perform some of the agent tasks, does it have a written policy and procedure in place for obtaining a signed informed consent statement from each individual the VF/EA FMS organization represents stating that the individual knows the VF/EA FMS organization is using the reporting agent or subagent to perform some of the agent task; lists the tasks the reporting agent or subagent will perform, describes the reporting agent's or subagent's liability for any unfulfilled federal and state tax obligations including penalties and interest; and states that the individual concurs with the VF/EA FMS organization using a reporting agent or subagent and for maintaining the signed statement in each individual's file?
32. If the VF/EA FMS organization uses a reporting agent or subagent to perform some of the agent tasks, does it have an internal control documented and in place to monitor the receipt of informed consent statements from individuals it represents related to the use of a reporting agent or a subagent and for maintaining a copy of these statements in each individual's file?

**II. KEY TASK TWO: Preparing and Distributing Individual/Representative-Employer Enrollment Packets and Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packets and Collecting and Processing Required Information and Documents**

***Individual/Representative-Employer Enrollment Packets***

1. Has the VF/EA FMS organization developed an *Individual/Representative-Employer Enrollment Packet* that contains information about the VF/EA FMS organization's services and operations (e.g., roles and responsibilities of the VF/EA FMS organization, hours of operation, key contact information, federal and state forms the individual must complete, sign and return to the VF/EA FMS organization [e.g., IRS Forms SS-4, 2678, 8821, and state power of attorney form(s) as applicable] and other applicable consent and agreement forms, as applicable)?
2. Does the VF/EA FMS organization have a system in place for producing and distributing *Individual/Representative-Employer Enrollment Packets*?
3. Does the VF/EA FMS organization have written policies and procedures for producing and distributing *Individual/Representative-Employer Enrollment Packets*?

4. Does the VF/EA FMS organization have internal controls documented and in place to monitor the production and distribution of *Individual/Representative-Employer Enrollment Packets*?
5. Does the VF/EA FMS organization have a system in place for collecting and processing the information contained in *Individual/Representative-Employer Enrollment Packet*?<sup>9</sup>
6. Does the VF/EA FMS organization have written policies and procedures for collecting and processing the information contained in the Individual-Employer enrollment packet?
7. Does the VF/EA FMS organization have internal controls documented and in place to monitor the collection, and processing the information contained in the Individual–Employer Enrollment Packet?

***Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packet***

1. Has the VF/EA FMS organization developed a *Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packet*<sup>10</sup> for individuals' employees and individual-directed goods and services vendors that contain all required information about the VF/EA FMS organization, employment application, vendor information form, federal and state forms and instructions, agreements and informed consent documents to enroll employees into the VF/EA FMS organization's payroll system (e.g., employment application, employer-employee agreement, designated emergency back-up support worker authorization, Medicaid provider agreement, as appropriate, IRS Form W-4, state Form W-4, if applicable, US CIS Form I-9, time sheet and instructions, time sheet due date and payday schedule and form to collect information for state new hire reporting) and individual-directed goods and services vendors (e.g., vendor information form, invoice submission form, invoice due date and payment schedule, IRS Forms W-9, as necessary) into its vendor payment system?
2. Does the VF/EA FMS organization have a system in place for producing and distributing *Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packet* that contain all required general information about the VF/EA FMS organization, employment application, federal and state forms and instructions, agreements and informed consent documents to enroll employees into the VF/EA FMS organization's payroll system (e.g., employment application, employer-employee agreement, designated emergency back-up support worker authorization, Medicaid provider agreement, as appropriate, IRS Form W-4, state Form W-4, if applicable, US CIS Form I-9, time sheet and instructions, time sheet due date and payday schedule and form to collect information for state new hire reporting) and individual-directed goods

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<sup>9</sup> Section IV, #1-24 further describe the human resource-related tasks.

<sup>10</sup> Some states combine these two into one packet.

and services vendors (e.g., vendor information form, invoice submission form, invoice due date and payment schedule, IRS Forms W-9, as necessary) into its vendor payment system?

3. Does the VF/EA FMS organization have written policies and procedures for producing and distributing *Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packets* for individual's employees that contain all required general information about the VF/EA FMS organization, employment application, federal and state forms and instructions, Medicaid provider and other agreements and informed consent documents to enroll employees into the VF/EA FMS organization's payroll system (e.g., employment application, employer-employee agreement, designated emergency back-up support worker authorization, Medicaid provider agreement, as appropriate, IRS Form W-4, state Form W-4, if applicable, US CIS Form I-9, time sheet and instructions, time sheet due date and payday schedule and form to collect information for state new hire reporting) and individual-directed goods and services vendors (e.g., vendor information form, invoice submission form, invoice due date and payment schedule, IRS Forms W-9, as necessary) into its vendor payment system?
4. Does the VF/EA FMS organization have internal controls documented and in place to monitor the production and distribution of employment packets for individual's that contain all required information about the VF/EA FMS organization, employment application, federal and state forms and instructions, Medicaid provider and other agreements and informed consent documents to enroll employees into the VF/EA FMS organization's payroll system (e.g., employment application, IRS Form W-4, state Form W-4, if applicable, US CIS Form I-9, time sheet and instructions, time sheet due date and payday schedule) and individual-directed goods and services vendors (e.g., vendor information form, invoice submission form, invoice due date and payment schedule, IRS Forms W-9, as necessary) into its vendor payment system?
5. Does the VF/EA FMS organization has a system in place for collecting and processing all required human resource and vendor forms and information contained in the *Support Worker Employment and Individual-directed Goods and Services Vendor Packets* and for maintaining copies in each support worker's/vendor's file?
6. Does the VF/EA FMS organization have written policies and procedures for collecting and processing all required human resource forms and information contained in the *Support Worker Employment and Individual-directed Goods and Services Vendor Packets* and for maintaining copies in each support worker's/vendor's file?
7. Does the VF/EA FMS organization have internal controls documented for monitoring the collection and processing all required human resource forms and information contained in the *Support Worker Employment and Individual-directed Goods and Services Vendor Packets* and for maintaining copies in each support worker's/vendor's file?

**III. KEY TASK THREE: Management of Individuals' Budget Funds and Invoicing the PDS Program Agency or Other Designated Entity for Support Services and VF/EA FMS Rendered**

1. Is the VF/EA FMS organization a Medicaid enrolled provider, when required?
2. Does the VF/EA FMS organization have an executed contract with the PDS program agency, when required?
3. Does the VF/EA FMS organization have a system in place for receiving and maintaining individuals' initial and updated service plans and budgets?
4. Does the VF/EA FMS organization have written policies and procedures for receiving and maintaining individuals' initial and updated service plans and budgets?
5. Does the VF/EA FMS organization have internal controls document for monitoring the receipt and maintenance of individuals' initial and updated service plans and budgets?
6. Has the VF/EA FMS organization established a separate bank account into which all payments received from the state for self-directed services are immediately deposited and that allows for electronic funds transfer?<sup>11</sup>
7. Does the VF/EA FMS organization maintain the separate bank account, to the extent permissible, in a manner that prevents creditors of the VF/EA FMS organization from in any way encumbering or acquiring funds in the bank account?
8. Does the VF/EA FMS organization have systems, policies, procedures and internal controls in place that prohibit the withdrawal of funds except for payment of participant-directed services and VF/EA FMS organization administrative fees, per PDS program agency directive?
9. Does the VF/EA FMS organization have an information system in place to receive and disburse individuals' public (e.g., Medicaid or other) budget funds and track budget funds received, disbursed and any remaining balances for each individual individually and in the aggregate?<sup>12</sup>

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<sup>11</sup> The VF/EA FMS organization must have rules for the withdrawing funds from this bank account and reporting all activity per state program requirements.

<sup>12</sup> The VF/EA FMS organization's system should include the preparation and submission of periodic reports of bank account activity to the PDS program agency, per state requirements. Reports should include a summary of bank activity for the reporting period, reconciliation of the back balance to the General Ledger, and reconciliation of any amounts advanced from the state. The VF/EA FMS organization must ensure that funds deposited into the bank account are not used by it or any other agent or third party to satisfy temporarily or otherwise, any VF/EA FMS organization liability or for any other purpose, except as instructed by the PDS program agency. Finally, the VF/EA FMS organization must not co-mingle other funds into the bank account.

10. Does the VF/EA have written policies and procedures for receiving and disbursing individuals' public (e.g., Medicaid or other) budget funds and tracking individuals' budget funds received, disbursed and any remaining balances for each individual and in the aggregate?
11. Does the VF/EA FMS organization have internal controls in place to monitor the receipt and disbursement of public (e.g., Medicaid or other) budget funds and any remaining balances for each individual?<sup>13</sup>
12. Does the VF/EA FMS organization have a system in place for billing the PDS program agency (e.g., a state Medicaid Management Information System or other billing system) or other designated entity for support services (e.g., support worker payroll and approved individual-directed goods and services vendor payments) provided to individuals and for VF/EA FMS services rendered?
13. Does the VF/EA FMS organization have a written policies and procedures for billing the PDS program agency (e.g., a state's Medicaid Management Information System [MMIS]) or other designated entity for support services (e.g., support worker payroll and approved individual-directed goods and services vendor payments) provided to individuals and for VF/EA FMS services rendered?
14. Does the VF/EA FMS organization have internal controls documented for monitoring the billing to the PDS program agency (e.g., a state's Medicaid Management Information System [MMIS]) or other designated entity for support services (e.g., support worker payroll and approved individual goods and services vendor payments) provided to individuals and for VF/EA FMS services rendered?
15. When applicable, does the VF/EA FMS organization have a system in place for processing individuals' co-share payments?
16. When applicable, does the VF/EA FMS organization have written policies and procedures for processing individuals' co-share payments?
17. When applicable, does the VF/EA FMS organization have internal controls documented for monitoring the processing of individuals' co-share payments.

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<sup>13</sup> An important internal control for this task is segregation of duties.

#### IV. KEY TASK FOUR: Payroll Process<sup>14</sup>

1. Does the VF/EA FMS organization have a system in place for collecting and processing an IRS Form W-4 from each support worker it processes payroll and for maintaining a copy of the form in each support worker's file?
2. Does the VF/EA FMS organization have written policies and procedures for collecting, and processing an IRS Form W-4 for each support worker it performs payroll for and for maintaining a copy of the form in each support worker's file?
3. Does the VF/EA FMS organization have internal controls documented and in place to monitor the collection and processing of IRS Forms W-4 for each support worker it performs payroll for and for maintaining a copy of the form in each support worker's file?
4. Does the VF/EA FMS organization have a system in place for collecting and processing a completed and signed state version of the Form W-4, when applicable, for each support worker it performs payroll for and for maintaining a copy in each support worker's file?
5. Does the VF/EA FMS organization have a written policy and procedure for collecting and processing a completed and signed state version of the Form W-4, when applicable, for each support worker it performs payroll for and for maintaining a copy in each support worker's file?
6. Does the VF/EA FMS organization have an internal control documented and in place to monitor the receipt of a completed and signed state version of the For W-4, when applicable, for each support worker it performs payroll for and for maintaining a copy in each support worker's file?
7. Does the VF/EA FMS organization have a system in place to assist individuals in verifying their support workers' citizenship and alien status by collecting and maintaining a completed US CIS Form I-9, *Employment Eligibility Verification* for every support worker it processes payroll for and for maintaining a copy of the form in each support worker's file?<sup>15</sup>

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<sup>14</sup> If a state PDS program agency is determined by DOL to be a joint employer of individuals' support workers, then the VF/EA FMS must have policies, procedures and internal controls in place for aggregating a support workers' wages across individuals for whom they work for determining overtime payments and computing and paying compensable travel time. In the case of Medicaid-funded PDS programs, a system and written policies, procedures and internal controls must be in place for billing the state PDS agency or other designated entity for the premium portion of the overtime payment and compensable travel time payments rather than from the individual's individual budget. As of 1/31/16 these procedures have not been fully finalized.

<sup>15</sup> It is recommended that if a VF/EA FMS organization maintains copies of support workers' identification information on file attached to the completed US CIS Form I-9 (e.g., copies of driver's license, social security number, passport, etc), the VF/EA FMS organization should obtain written permission from the workers' to do so.

8. Does the VF/EA FMS organization have written policies and procedures for assisting individuals in verifying their support workers' citizenship and alien status and for collecting and maintaining completed US CIS Form I-9 for each support worker it processes payroll for and for maintaining a copy of the form in each support worker's file?
9. Does the VF/EA FMS organization have an internal control documented and in place to monitor the completion and processing of US CIS Forms I-9 for each support worker the individual employs and for maintaining a copy of the forms in each support worker's file?
10. Does the VF/EA FMS organization have a system in place to process criminal background checks on prospective support workers (as required by the PDS program agency or requested by the individual), notifying the responsible party(s) of the results and for maintaining copies of the documentation in the support workers' files?
11. Does the VF/EA FMS organization have written policies and procedures for processing criminal background checks on prospective support workers (as required by the PDS program agency or requested by the individual), notifying the responsible party(s) of the results and for maintaining copies of the documentation in the support workers' files?
12. Does the VF/EA FMS organization have an internal control documented and in place to monitor the processing of criminal background checks on prospective support workers (as required by the PDS program agency or requested by the individual), notifying the responsible party(s) of the results and for maintaining copies of the documentation in the support workers' file?
13. Does the VF/EA FMS organization have a system in place for verifying each support worker's social security number and for maintaining the appropriate documentation in each support worker's file?
14. Does the F/EA FMS organization have written policies and procedures for verifying each support worker's social security number and for maintaining the appropriate documentation in each support worker's file?
15. Does the VF/EA FMS organization have internal controls documented and in place to monitor the verification of each support worker's social security number and for maintaining the appropriate documentation in each support worker's file?
16. Does the VF/EA FMS organization have a system in place for verifying the state of residence for each support worker and for maintain the appropriate documentation in each support worker's file?
17. Does the VF/EA FMS organization have written policies and procedures for verifying the state of residence for each support worker and for maintain the appropriate documentation in each support worker's file?

18. Does the VF/EA FMS organization internal controls documented and in place to monitor the verification of the state of residence for each support worker and for maintain the appropriate documentation in each support worker's file?
19. Does the VF/EA FMS organization have a system in place to ensure support workers are paid in compliance with federal and state Department of Labor wage and hour rules for regular and overtime pay?
20. Does the VF/EA FMS organization have written policies and procedures to ensure support workers are paid in compliance with federal and state Department of Labor wage and hour rules for regular and overtime pay?
21. Does the VF/EA FMS organization have an internal control documented and in place to monitor that support workers are paid in compliance with federal and state Department of Labor wage and hour rules for regular and overtime pay?
22. Does the VF/EA FMS organization have a system in place to report new hires per state requirements and maintain documentation in the individual's file?
23. Does the VF/EA FMS organization have written policies and procedures for reporting new hires per state requirements and maintain documentation in the individual's file?
24. Does the VF/EA FMS organization has an internal control documented and in place to monitor the reporting of new hires per state requirements and maintain documentation in the individual's file?
25. Has the VF/EA FMS organization designed and produced a timesheet and instructions for support workers that has been approved by the PDS program agency?
26. Does the VF/EA FMS organization have a system in place for producing, distributing, collecting, verifying and processing support workers' timesheets and maintaining copies in the support worker's file?
27. Does the VF/EA FMS organization have written policies and procedures for producing, distributing, collecting verifying and processing support workers' timesheets and maintaining copies in the support worker's file?
28. Does the VF/EA FMS organization have an internal control documented and in place for monitoring the production, distribution, collection, verification and processing of support workers' timesheets and maintaining copies in the support worker's file?
29. Does the VF/EA FMS organization have a system in place for developing and maintaining a database that is effective for tracking and responding to occurrences of time sheet over billing and timesheets that cannot be paid due to missing or erroneous information?

30. Does the VF/EA FMS organization have written policies and procedures for developing and maintaining a database that is effective for tracking and responding to occurrences of time sheet over billing and timesheets that cannot be paid due to missing or erroneous information?
31. Does the VF/EA FMS organization have internal controls to monitor the development and maintenance of a database that is effective for tracking and responding to occurrences of time sheet over billing and timesheets that cannot be paid due to missing or erroneous information?
32. Does the VF/EA FMS organization, have a system in place for determining if the individuals' support workers are family members who might be exempt from paying into to FICA, FUTA and SUTA?<sup>16</sup>
33. Does the VF/EA FMS organization, have written policies and procedures for processing Federal and State employment taxes for individuals' support workers are family members who are exempt from paying into FICA, FUTA and SUTA?
34. Does the VF/EA FMS organization, have internal controls documented to monitor the identification and processing of family members who are paid support workers are exempt from paying into FICA, FUTA and SUTA?
35. Does the VF/EA FMS organization have written policies and procedures for processing difficulty of care payments (i.e., not withholding Federal income tax withholding and possibly state income tax withholding per state requirements related to difficulty of care) for eligible support workers in accordance with IRS Notice 2014-7?
36. Does the VF/EA FMS organization have internal controls document to monitor the processing of difficulty of care payments for eligible support workers in accordance with IRS Notice 2014-7?
37. Does the VF/EA FMS organization have a system in place for withholding and filing FICA (Medicare and social security taxes) and federal income tax withholding using an IRS Form 941, *Employers Quarterly Federal Tax Return*, quarterly in the aggregate with its separate FEIN for all individuals it represents, along with the IRS Forms 941 Schedule R and Schedule B as appropriate, and maintaining a copy of each IRS Form 941, Schedule R and B filed and other documentation in the VF/EA FMS organization's files?
38. Does the VF/EA FMS organization have written policies and procedures for withholding and filing FICA (Medicare and social security taxes) and federal income tax withholding using an IRS Form 941 quarterly in the aggregate with its separate FEIN for all individuals it represents, along with the IRS Forms 941 Schedule R and Schedule B as appropriate,

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<sup>16</sup> See IRS Publication 15, Circular E, Employer's Tax Guide, Chapter 3, "Family Employees" and check with State SUTA agency for how these and any additional family exemptions may apply.

and for maintaining a copy of each IRS Form 941, Schedule R and B filed and other documentation in the VF/EA FMS organization's files?

39. Does the VF/EA FMS organization have internal controls documented and in place to monitor the withholding and filing of FICA (Medicare and social security taxes) and federal income tax withholding using an IRS Form 941 quarterly in the aggregate using the VF/EA FMS organization's separate FEIN for all individuals it represents, along with the IRS Forms 941 Schedule R and Schedule B as appropriate, and for maintaining a copy of each IRS Form 941, Schedule R and B filed and other related documentation in the VF/EA FMS organization's files?
40. Does the VF/EA FMS organization have a system in place for depositing FICA and federal income tax withholding in the aggregate for all individuals it represents using the VF/EA FMS organization's separate FEIN, in accordance with IRS depositing rules and for maintaining documentation in the VF/EA FMS organization's files?
41. Does the VF/EA FMS organization have written policies and procedures for depositing FICA and federal income tax withholding in the aggregate for all individuals it represents using the VF/EA FMS organization's separate FEIN, in accordance with IRS depositing rules and for maintaining documentation in the VF/EA FMS organization's files?
42. Does the VF/EA FMS organization have internal controls documented and in place for monitoring the depositing of FICA and federal income tax withholding in the aggregate for all individuals it represents using the VF/EA FMS organization's separate FEIN, in accordance with IRS depositing rules and the maintenance of documentation in the VF/EA FMS organization's files?
43. Does the VF/EA FMS organization have a system in place for withholding and filing FUTA using an IRS Form 940, *Employer's Annual Federal Unemployment Tax Report*, and the *Form 940 Schedule R* annually in the aggregate using the VF/EA FMS' organization separate FEIN for all individuals it represents and maintaining documentation in the VF/EA FMS organization's files?
44. Does the VF/EA FMS organization have written policies and procedures for withholding and filing FUTA using an IRS Form 940, *Employer's Annual Federal Unemployment Tax Report* and the *Form 940 Schedule R* annually, in the aggregate using the VF/EA FMS organization's separate FEIN for all individuals it represents and maintaining documentation in the VF/EA FMS organization's files?
45. Does the VF/EA FMS organization have internal controls documented and in place to monitor the withholding and filing FUTA using an IRS Form 940, *Employer's Annual Federal Unemployment Tax Report* and *Form 940 Schedule R* annually in the aggregate using the VF/EA FMS organization's separate FEIN for all individuals it represents and maintaining documentation in the VF/EA FMS organization's files?

46. Does the VF/EA FMS organization have a system in place for depositing FUTA in the aggregate using its separate FEIN quarterly and per IRS FUTA depositing requirements for all individuals it represents and for maintaining documentation in the VF/EA FMS organization's files?
47. Does the VF/EA FMS organization have a written policy and procedure for depositing FUTA in the aggregate quarterly using its separate FEIN and per IRS FUTA depositing requirements for all individuals it represents and for maintaining documentation in the VF/EA FMS organization's files?
48. Does the VF/EA FMS organization have internal controls documented and in place to monitor the depositing of FUTA in the aggregate using its separate FEIN quarterly and per IRS FUTA depositing requirements for all individuals it represents and for maintaining documentation in the VF/EA FMS organization's files?
49. Does the VF/EA FMS organization have a system in place for registering individuals' as employers, establishing a department of revenue account and obtaining a state income tax account number<sup>17</sup> for income tax filing and payment purposes for each individual it represents and maintaining documentation in the individual's file?<sup>18</sup>
50. Does the VF/EA FMS organization have written policies and procedures for registering individuals' as employers, establishing a department of revenue account and obtaining a state income tax account number for income tax filing and payment purposes for each individual it represents and maintaining documentation in the individual's file?
51. Does the VF/EA FMS organization have internal controls documented and in place to monitor the state employer registration process, including the establishment of accounts and receipt of account numbers for each individual-employer for state income tax and the maintenance of documentation in the individual's file?
52. Does the VF/EA FMS organization have a system in place for registering individuals as employers, establishing an account and obtaining an account number for state unemployment tax filing and payment purposes for each individual it represents and maintaining documentation in the individual's file?<sup>19</sup>

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<sup>17</sup> Some state revenue and unemployment tax agencies may opt to use the individual's federal employer identification number for state tax filing and depositing purpose while others issue state tax agency-specific account numbers. The VF/EA FMS organization should confirm the correct procedure with the appropriate tax agencies.

<sup>18</sup> It should be noted that some states have a combined employer registration process for state income tax withholding and unemployment taxes.

<sup>19</sup> Five states (California, Hawaii, New Jersey, New York and Rhode Island) have mandatory disability insurance coverage for workers. The tasks associated with this type of insurance along with the written policies and procedures and internal controls should be addressed by the VF/EA FMS organization in the applicable states.

53. Does the VF/EA FMS organization have written policies and procedures for registering individuals as employers, establishing an account and obtaining an account number for state unemployment tax filing and payment and maintaining documentation in the individual's file
54. Does the VF/EA FMS organization have internal controls documented and in place to monitor the state employer registration process, the establishment of accounts and receipt of account numbers for state unemployment tax purposes for individual-employers and the maintenance of documentation in the individual's file?
55. Does the VF/EA FMS organization have systems in place for retiring an individual's state income tax account and account number when the individual no longer is the employer of support workers (permanently) and maintaining documentation in the individual's file?
56. Does the VF/EA FMS organization have written policies and procedures for retiring an individual's state income tax account and account number when the individual no longer is the employer of support workers (permanently) and maintaining documentation in the individual's file?
57. Does the VF/EA FMS organization have internal controls documented for monitoring the retirement of an individual's state income tax account and account number when the individual no longer is the employer of support workers (permanently) and maintaining documentation in the individual's file?
58. Does the VF/EA FMS organization have a system in place for retiring an individual's state unemployment tax account and account number when the individual no longer is the employer of support workers (permanently) and maintaining documentation in the individual's file?
59. Does the VF/EA FMS organization have written policies and procedures for retiring an individual's state unemployment tax account and account number when the individual no longer is the employer of support workers (permanently) and maintaining documentation in the individual's file?
60. Does the VF/EA FMS organization have internal controls documented for monitoring the retirement of an individual's state unemployment tax account and account number when the individual no longer is the employer of workers (permanently) and maintaining documentation in the individual's file?

61. Does the VF/EA FMS organization have a system in place for withholding and filing state income tax individually for each individual it represents and for maintaining documentation in the individual's file?<sup>20</sup>
62. Does the VF/EA FMS organization have written policies and procedures for withholding and filing state income taxes individually for each individual it represents per state requirements and for maintaining documentation in the individual's file?
63. Does the VF/EA FMS organization have internal controls documented and in place to monitor the withholding and filing of state income taxes for each individual it represents per state requirements and for maintaining documentation in the individual's file?
64. Does the VF/EA FMS organization have a system in place for depositing state income tax individually for each individual it represents per state requirements and for maintaining documentation in the individual's file?
65. Does the VF/EA FMS organization have written policies and procedures for depositing state income taxes individually for each individual it represents per state requirements and for maintaining documentation in the individual's file?
66. Does the VF/EA FMS organization have internal controls documented and in place to monitor the depositing of state income taxes for each individual it represents per state requirements and for maintaining documentation in the individual's file?
70. Does the VF/EA FMS organization have a system in place for filing and depositing out-of-state income tax withholding, as required by the state or requested by the worker, for workers who reside outside of the state they work in and for maintaining documentation in the support worker's file?<sup>21</sup>
71. Does the VF/EA FMS organization have written policies and procedures for filing and depositing out-of-state income tax withholding, as required by the state or requested by the worker, for workers who reside outside of the state they work in and for maintaining the documentation in the support worker's file?
72. Does the VF/EA FMS organization have internal controls documented and in place to monitor the withholding, filing and depositing of out-of-state income tax withholding, as required by the state or requested by the support worker, for support workers who reside outside of the state they work in and the maintaining documentation in the support worker's file.

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<sup>20</sup> It should be noted that some states do not have state personal income tax requirements (AK, FL, NV, SD, TX, WA and WY. NH and TN only tax dividends and interest).

<sup>21</sup> Some states have agreements with adjoining states on how to process SIT for nonresident support workers. For example, WV has agreements with KY, MD, OH, PA, & VA on the process to be used to process SIT for individuals working in WV who are not WV residents. The VF/EA FMS organization should check for state agreements regarding nonresident support workers in each state it operates in.

73. Does the VF/EA FMS organization have a system in place for withholding state unemployment insurance tax individually for each individual it represents and for maintaining documentation in the individual's file?
74. Does the VF/EA FMS organization have written policies and procedures for withholding state unemployment insurance taxes individually for each individual it represents and maintaining documentation in the individual's file?
75. Does the VF/EA FMS organization have internal controls documented and in place monitoring the withholding of state unemployment taxes individually for each individual it represents and for maintaining documentation in the individual's file?
76. Does the VF/EA FMS organization have a system in place for filing state unemployment insurance tax individually for each individual it represents per state requirements and for maintaining documentation in the individual's file? <sup>22</sup>
77. Does the VF/EA FMS organization have written policies and procedures for filing state unemployment insurance taxes individually for each individual it represents per state requirements and maintaining documentation in the individual's file?
78. Does the VF/EA FMS organization have internal controls documented and in place monitoring the filing of state unemployment taxes individually for each individual it represents per state requirements and for maintaining documentation in the individual's file?
79. Does the VF/EA FMS organization have a system in place for depositing state unemployment taxes individually for each individual it represents per state payment schedule and for maintaining documentation in the individual's file?
80. Does the VF/EA FMS organization have written policies and procedures for depositing state unemployment taxes individually for each individual it represents per state payment schedule and maintaining documentation in the individual's file?
81. Does the VF/EA FMS organization have internal controls documented and in place to monitor the payment of state unemployment taxes for each individual it represents per state payment schedule and for maintaining documentation in the individual's file?
82. If applicable, does the VF/EA FMS organization have a system in place for withholding and filing locality taxes related to employment and for maintaining documentation in the individual's and/or support worker's file?<sup>23</sup>

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<sup>22</sup> The VF/EA FMS organization should have a system, policy and procedure and internal control documented and in place that address the process for making the last state unemployment tax filing and deposit for an individual per state unemployment insurance agency instructions. Most states require a final filing even if the filing is zero.

83. If applicable, does the VF/EA FMS organization have written policies and procedures for withholding and filing locality taxes related to employment and for maintaining documentation in the individual's and/or support worker's file?
84. If applicable, does the VF/EA FMS organization have internal controls documented and in place for monitoring the withholding and filing of locality taxes related to employment and for maintaining documentation in the individual's and support worker's file?
85. If applicable, does the VF/EA FMS organization have a system in place for depositing locality taxes related to employment (as applicable) and for maintaining documentation in the individual's and/or support worker's file?<sup>24</sup>
86. If applicable, does the VF/EA FMS organization have written policies and procedures for depositing locality taxes related to employment and for maintaining documentation in the individual's and/or support worker's file?
87. If applicable, does the VF/EA FMS organization have internal controls documented and in place for monitoring the depositing of locality taxes related to employment and for maintaining documentation in the individual's and/or support worker's file?
88. Does the VF/EA FMS organization have a system in place for managing the application of all garnishments, levies and liens on workers' payroll checks in an accurate and timely manner and for maintaining documentation in the individual's and support worker's file?
89. Does the VF/EA FMS organization have written policies and procedures for managing the application of all garnishments, levies and liens on support workers' payroll checks in an accurate and timely manner and for maintaining documentation in the individual's and support worker's file?
90. Does the VF/EA FMS organization have an internal control documented and in place to monitor the accuracy and timeliness of the application of garnishments, levies and liens on support workers' payroll checks in an accurate and timely manner and for maintaining documentation in the individual's and support worker's file?
91. If applicable, does the VF/EA FMS organization have a system in place for withholding and paying union dues for each support worker and for maintaining documentation in the support worker's file?

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<sup>23</sup> A few states have these locality-based taxes (i.e., Pennsylvania, West Virginia).

<sup>24</sup> A few states have these locality-based taxes (i.e., Pennsylvania, West Virginia).

92. If applicable, does the VF/EA FMS organization have a written policies and procedures for withholding and paying union dues for each support worker and for maintaining documentation in the support worker's file?
93. If applicable, does the VF/EA FMS organization have internal controls documented and in place to monitor the withholding and paying union dues for each support worker and for maintaining documentation in the support worker's file?
94. Does the VF/EA FMS organization have a system in place to pay individuals' support workers within the time period required by the state department of labor (e.g., per State "Payday" requirement) and for maintaining documentation in each support worker's file?
95. Does the VF/EA FMS organization have written policies and procedures to pay individuals' support workers within the time period required by the state department of labor (e.g., State "Payday" requirement) and for maintaining documentation in each support worker's file?
96. Does the VF/EA FMS organization have an internal control documented and in place to monitor the paying of individuals' support workers within the time period required by the state department of labor (e.g., State "Payday" requirement) and for maintaining documentation in the support worker's file?
97. Does the VF/EA FMS organization have a system in place for processing support workers' direct deposit and for maintaining the documentation in the support worker's file?<sup>25</sup>
98. Does the VF/EA FMS organization have written policies and procedures for processing direct deposits for support workers and for maintaining documentation in the support worker's file?
99. Does the VF/EA FMS organization have an internal control documented and in place to monitor the direct deposit process and for maintaining documentation in the individual's file?
100. Does the VF/EA FMS organization have a system in place for processing wage information requests from federal and state agencies and other qualified entities and maintaining documentation and correspondence in the support worker's file?
101. Does the VF/EA FMS organization have written policies and procedures for processing wage information requests from federal and state agencies and other qualified entities and maintaining all correspondence and documentation in the support worker's file?

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<sup>25</sup> Some VF/EA FMS organizations are offering debit cards as an option for support workers to receive their payroll checks in addition to offering direct deposit of payroll checks.

102. Does the VF/EA FMS organization have internal controls documented and in place to monitor the processing wage information requests from federal and state agencies and other qualified entities and the maintenance all documentation and correspondence in the support worker's file?

## **V. KEY TASK FIVE: End of Year Federal Tax Processes**

1. Does the VF/EA FMS organization have a system in place for refunding over collected FICA to applicable individual-employers (or state or county government or other designated public funding entity) and employees in accordance with IRS requirements and for maintaining documentation in the VF/EA FMS organization's and support worker's files?<sup>26</sup>
2. Does the VF/EA FMS organization have written policies and procedures for refunding over collected FICA to applicable individual-employers (or state or county government or other public funding entity) in accordance with IRS requirements and employees and maintaining documentation in the VF/EA FMS organization's and support worker's files?
3. Does the VF/EA FMS organization have internal controls documented and in place to monitor the refunding of over collected FICA to applicable individual-employers (or state or county government or other public funding entity) and employees and for maintaining documentation in the VF/EA FMS organization's and support worker's files?
4. Has the VF/EA FMS organization a system in place for preparing, filing and distributing IRS Forms W-2, *Wage and Tax Statement*, for individuals' support workers per IRS instructions for agents, for electronic filing when processing 250 or more IRS Forms W-2, and for maintaining documentation in the support worker's file?<sup>27</sup>

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<sup>26</sup> Around the end of October each year, a VF/EA FMS organization should review its payroll records to determine which support workers will not earn the FICA wage threshold amount from each of their employers by December 31<sup>st</sup> of the calendar tax year. Then the VF/EA FMS organization should verify that it has the current mailing address for each support worker who may be due a refund of over collected FICA. FICA refunds only should be issued to support workers for whom the VF/EA FMS organization has an accurate and current address for. The VF/EA FMS organization then should file an IRS Form 941-X for each quarter in which over collected FICA has occurred and attach an IRS Schedule R to the 941-X listing the applicable individual-employers information as listed on the form. The VF/EA FMS organization can either request a refund of the employer and employee share of over collected FICA or have the over collected FICA applied as a credit to a current or future quarter. This process should be repeated for each quarter in which FICA was over collected. FICA refunds should be issued to each applicable employee at the end of the applicable calendar tax year and the state, county or other public funding entity needs to determine to whom the VF/EA FMS organization will reimburse for the employer portion of over collected FICA. IRS Forms W-2 should not be issued for workers who receive FICA refunds (receive FICA wages less than the FICA wage threshold amount) per IRS Form W-2 instructions. Rather, the VF/EA FMS organization should consider preparing and distributing the IRS Form 4852, *Substitute for Form W-2, Wage and Tax Statement* or Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRA, Insurance Contracts, etc* to the applicable support workers and maintain a copy in the VF/EA FMS organization's file.

<sup>27</sup> VF/EA FMS organizations must report the individual's state income tax account identification number in Box 15 on the IRS Form W-2 since the VF/EA FMS organization does not obtain a separate state income tax account identification number from the State.

5. Does the VF/EA FMS organization have written policies and procedures for preparing, filing and distributing IRS Forms W-2 for individuals' support workers in accordance with IRS instructions for agents, for electronic filing when processing 250 or more IRS Forms W-2 and for maintaining documentation in the support worker's file?
6. If applicable, does the VF/EA FMS organization have a system in place for preparing, filing and distributing IRS Forms W-3, *Transmittal of Wage and Tax Statement*, in the aggregate for all individuals the VF/EA FMS organization represents per IRS instructions and for maintaining documentation in the VF/EA FMS organization's files?<sup>28</sup>
7. If applicable, does the F/EA have written policies and procedures for preparing and distributing IRS Forms W-3 in the aggregate for all individuals the Agent represents per IRS instructions for agent and for maintaining documentation in the VF/EA FMS organization's files?
8. If applicable, does the VF/EA FMS organization have internal controls documented and in place to monitor the preparation and distribution of IRS Forms W-2 and 3 in accordance with IRS instructions for agents and for maintaining documentation in the VF/EA FMS organization's files?
9. For workers who do not qualify to receive an IRS Form W-2, does the VF/EA FMS organization have a system in place and written policies, procedures and internal controls for preparing and distributing an IRS Form 4852, Substitute for Form W-2, Wage and Tax Statement or Form 1099-R, *Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.* and for maintaining documentation in the VF/EA FMS organization's file?<sup>29</sup>
10. Does the VF/EA FMS organization have a system in place for processing returned payments (support worker payroll or individual-directed goods and services vendor payments) in accordance with the state's Unclaimed Property Law and maintaining documentation in the VF/EA FMS organization's file?
11. Does the VF/EA FMS organization have written policies and procedures for processing returned payments (support worker payroll or individual-directed goods and services vendor payments) in accordance with the state's Unclaimed Property Law and maintaining documentation in the VF/EA FMS organization's file?

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<sup>28</sup> VF/EA FMS organizations must leave Box 15 blank on the IRS Form W-3 because the state does not issue the VF/EA FMS organization a separate state income tax employer ID number.

<sup>29</sup> Per IRS Form W-2/W-3 Instructions, a Form W-2 should not be issued to a support worker if he/she does not earn FICA wages that are equal or more than the FICA wage threshold for the particular calendar tax year. In this case, the VF/EA FMS organization can provide the wage and tax withholding information that normally would be reported on the Form W-2 by preparing and distributing an IRS Form 4852 to the worker so he/she can attach it to their annual Form 1040.

12. Does the VF/EA FMS organization have internal controls documented and in place to monitoring the processing of returned payments (support worker payroll or individual-directed goods and services vendor payments) in accordance with the state's Unclaimed Property Law and for maintaining documentation in the VF/EA FMS organization's file?

**VI. KEY TASK SIX: Processing Payment for Independent Contractors Who Provide Services and Supports To Individuals and Their Representatives**

In general, IRS considers unskilled home-based care workers as employees and not independent contractors. The Department of Labor (DOL) also has its own method for determining independent contractor status for DOL wage and hour purposes. However, there may be an occasion where an individual may contract with a bonafide independent contractor to receive an approved individual-directed good or service. If there is a question regarding a vendor or support worker's employment status, the VF/EA FMS organization should require that the individual file an IRS Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding* and submit the IRS decision to the VF/EA FMS organization and review the DOL meth for determining independent contractor status before a support worker or vendor is processed and paid as an independent contractor.<sup>30</sup>

1. Does the VF/EA FMS organization have a system in place to assist the individual in verifying the employment status of a support worker or individual-directed goods and services vendor?
2. Does the VF/EA FMS organization have a written policy and procedure in place to assist the individual in verifying the employment status of a support worker or individual-directed goods and services vendor?
3. Does the VF/EA FMS organization have an internal control documented and in place for monitoring the employment status of a support worker or individual-directed goods and services vendor?
4. If a support worker or vendor has been determined to be an independent contractor, does the VF/EA FMS organization have a system in place to obtain a completed and signed IRS Form W-9, *Request for Taxpayer Identification Number Certification* from each independent contractor working for an individual and for maintaining a copy of the form in each applicable independent contractor's file?
5. If a support worker or vendor has been determined to be an independent contractor, does the VF/EA FMS organization have a written policy and procedure for obtaining a completed and signed IRS Form W-9 from each independent contractor working for an

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<sup>30</sup> Some states' departments of labor have their own *Determination of Worker Employment Status* Form. VF/EA FMS organizations should find out if the state will recognize the IRS Form SS-8 and decision received or if the individual also has to file the state form and get a separate decision. In addition, the IRS decision is applied to individual support workers or vendors and not groups of support workers or vendors.

individual and for maintaining copies of the form in each applicable independent contractor's file?

6. If a support worker or vendor has been determined to be an independent contractor, does the VF/EA FMS organization have an internal control documented and in place to monitor its process for determining a support worker's or vendor's employment status and the receipt of completed and signed IRS Forms W-9 from each independent contractor working for an individual and for maintaining copies of the form in each applicable independent contractor's file?
7. For each independent contractor who has been paid \$600 or more in a calendar year, does the VF/EA FMS organization have a system in place for processing an IRS Form 1099-Misc for that independent contractor and for maintaining documentation in each independent contractor's file?
8. For each independent contractor who has been paid \$600 or more in a calendar year, does the VF/EA FMS organization have a written policy and procedure for processing an IRS Form 1099-Misc for these independent contractors and for maintaining documentation in each independent contractor's file?
9. For each independent contractor who has been paid \$600 or more in a calendar year, does the VF/EA FMS organization have an internal control documented and in place to monitor the processing of IRS Forms 1099-Misc for these independent contractors for maintaining documentation in each independent contractor's file?

## **VII. KEY TASK SEVEN: Customer Service System**

1. Does the VF/EA FMS organization have a customer service system in place that includes:
  - A toll free phone number and TTY number (or alternative method for communicating with individuals that are hearing impaired).
  - A fax,
  - Web-based information regarding VF/EA FMS services,
  - Internet/e-mail communication,
  - Methods for receiving and processing enrollment, employment and other information from individuals and support workers,
  - Ability to provide translation and interpreter services (i.e. American Sign Language and services for persons with Limited English Proficiency),
  - Materials available in alternate formats,
  - Methods for receiving, returning and tracking calls from individuals and support workers during and after regular business hours,
  - Methods for receiving, responding to and tracking complaints from individuals and support workers within a reasonable time period,

- Methods for acting as a mandatory reporter, and reporting critical incidents, particularly for financial fraud and abuse issues, to the appropriate state agencies,
  - Develop and implement orientation and skills training for individuals their represent, if required by the PDS program agency,
  - Participate in orientation and skills training conducted by another entity, as applicable and required by the PDS program agency,
  - Developed and implemented customer services training for VF/EA FMS organization (and or reporting agent staff as applicable) staff,
  - Develop individual/designated representative-employer satisfaction survey, as required by the PDS program agency,
  - Conduct individual/designated representative-employer satisfaction surveys at least annually and analyze and summarize results for submission to the designated PDS program agency as required by the PDS program agency,
  - Develop and implement a plan of correction process, based on the summary of annual individual satisfaction survey results to implement continuous quality improvement of VF/EA FMS organization operations, as appropriate, and
  - Developed and implemented policies and procedures that emphasize the application of the philosophy of participant direction and being culturally and linguistically sensitive in all business practices in order to communicate effectively with a diverse population of individuals of all ages and with a variety of needs, disabilities and chronic conditions.
2. Does the VF/EA FMS organization have a system in place and written policies and procedures for producing distributing and collecting Individual/Representative-Employer Enrollment Packets as described in Section II, Preparing and Distributing Program Individual/Representative-Employer Enrollment Packets and Support Worker Employment and Individual-directed Goods and Services Vendor Engagement Packets and internal controls documented to monitor the process as described in Section II?
  4. Does the VF/EA FMS organization have a system in place for implementing the components of its customer service system?
  5. Does the VF/EA FMS organization have written policies and procedures for implementing the components of its customer service system?
  6. Does the VF/EA FMS organization have internal controls documented and in place to monitor the implementation of its customer service system?

### **VIII. KEY TASK EIGHT: Record Management Process**

1. Does the VF/EA FMS organization have a system in place for establishing and maintaining current individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files in a secure and confidential (in accordance

with HIPAA and the HI-TECH Act, as appropriate) manner as required by federal and state rules and regulations (e.g., meet any applicable HIPAA requirements)?

2. Does the VF/EA FMS organization have written policies and procedures for establishing and maintaining current individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files in a secure and confidential (in accordance with HIPAA and the HI-TECH Act, as appropriate) manner and for the proscribed period of time as required by federal and state rules and regulations (e.g., federal and state record retention rules and any applicable HIPAA requirements)?
3. Does the VF/EA FMS organization have internal controls documented and in place to monitor the establishment and maintenance of current individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files?
4. Does the VF/EA FMS organization have a system in place for establishing and maintaining archived individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files in a secure and confidential (in accordance with HIPAA and the HI-TECH Act, as appropriate) manner as required by federal and state rules and regulations (e.g., meet any applicable HIPAA requirements)?
5. Does the VF/EA FMS organization have written policies and procedures for establishing and maintaining archived individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files in a secure and confidential (in accordance with HIPAA and the HI-TECH Act, as appropriate) manner and for the proscribed period of time as required by federal and state rules and regulations (e.g., federal and state record retention rules and any applicable HIPAA requirements)?
6. Does the VF/EA FMS organization have internal controls documented and in place to monitor the establishment and maintenance of archived individual, support worker, individual-directed goods and services vendor and VF/EA FMS organization files?
7. Does the VF/EA FMS organization have a disaster recovery plan for electronic and hard copy files in place?
8. Does the VF/EA FMS organization have a system in place for testing, executing and updating its disaster recovery plan for electronic and hard copy files?
9. Does the VF/EA FMS organization have written policies and procedures for testing, executing and updating its disaster recovery plan?
10. Does the VF/EA FMS organization have internal controls documented for testing, executing and updating its disaster recovery plan?

## **IX. KEY TASK NINE: Brokering Workers' Compensation Insurance**

Some PDS programs require and fund individuals' purchase workers' compensation insurance. In the State of Alabama, individuals are allowed to decide whether or not to purchase this insurance with the assistance of the VF/EA FMS organization. The following tasks should be considered if worker's compensation insurance is provided.

1. Does the VF/EA FMS organization have a system in place to process and pay workers' compensation insurance policies for each individual it represents in accordance with the state's workers' compensation insurance law and for maintaining the documentation in each individual's file?<sup>31</sup>
2. Does the VF/EA FMS organization have written policies and procedures in place for processing and paying workers' compensation insurance premium for each individual it represents in accordance with the state's workers' compensation insurance law and for maintaining documentation in each individual's file?
3. Does the VF/EA FMS organization have an internal control documented and in place to monitor the processing and paying of workers' compensation insurance premiums for each individual it represents in accordance with the state's workers' compensation insurance law and for maintaining documentation in each individual's file?
4. Does the VF/EA FMS organization have a system in place for providing wage information to worker's compensation insurers to determine support workers' benefits when a claim has been submitted accordance with the state's workers' compensation insurance law and for maintaining the documentation in each individual's file?
5. Does the VF/EA FMS organization have written policies and procedures for providing wage information to worker's compensation insurers to determine support workers' benefits when a claim has been submitted accordance with the state's workers' compensation insurance law and for maintaining the documentation in each individual's file?
6. Does the VF/EA FMS organization have internal controls documented for monitoring the provision of wage information to worker's compensation insurers to determine support workers' benefits when a claim has been submitted accordance with the state's

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<sup>31</sup> Brokering workers compensation (WC) does not mean purchasing an umbrella WC policy for all individuals. This approach makes the VF/EA FMS organization look like a joint employer of support workers and does not correctly implement the workers' compensation insurance policies with the actual employer. Workers' compensation insurance policies should be executed with the employer who is responsible for directing and controlling the activities of the support worker that could lead to an occurrence of a workplace injury. Brokering does mean that the VF/EA FMS organization facilitates the receipt of WC policies and renewals for individuals, paying annual premiums on individuals' behalf with public funds and providing wage information to the workers' compensation insurance agency to determine workers' benefits, and being the site for the workers' compensation insurance annual audit. State program agencies also have to determine if they will require individuals to obtain workers' compensation insurance policies in states where their support workers are considered domestic service workers who are exempt from the state's WC law.

workers' compensation insurance law and for maintaining the documentation in each individual's file?

**X. KEY TASK TEN: Preparing and Maintaining a VF/EA FMS Policies and Procedures Manual and Staying Up-to-Date With Federal and State Rules and Regulations Regarding Vendor Fiscal/Employer Agents and Household Employers**

1. Does the VF/EA FMS organization have a comprehensive, state-specific VF/EA FMS organization policies and procedures manual that includes all policies and procedures related to the tasks associated with performing the VF/EA FMS functions including the role and tasks of any reporting agent or subagent used; any overlapping communication and data transmission tasks; tasks related to monitoring the reporting agent's or subagent's performance; and internal controls for monitoring the completion of all VF/EA FMS organization and reporting agent or subagent tasks, when applicable. The document should be available in an electronic format.
2. Does the VF/EA FMS organization have a system in place, written policies and procedures and internal controls for maintaining and updating its VF/EA FMS organization policies and procedures manual at least annually, and as needed.
3. Does the VF/EA FMS organization, have a system in place for reviewing and updating all IRS forms, instructions, notices and publications related to VF/EA FMS organizations, household employers and domestic service workers and preparing, filing and depositing federal taxes on behalf of individual household employers it represents at [www.irs.gov](http://www.irs.gov)?
4. Does the VF/EA FMS organization, have written policies and procedures for reviewing and updating all IRS forms and instructions, notices and publications related to VF/EA FMS providers, household employers and domestic service workers and preparing, filing and depositing federal taxes on behalf of individual household employers it represents at [www.irs.gov](http://www.irs.gov)?
5. Does the VF/EA FMS organization, have an internal control documented and in place to monitor the updating of all IRS forms and instructions, notices and publications related to VF/EA FMS organizations, household employers and domestic service workers and preparing, filing and depositing federal taxes on behalf of household employers/individuals it represents at [www.irs.gov](http://www.irs.gov)?
6. Does the VF/EA FMS organization have a system in place for reviewing and updating all applicable US Citizenship and Immigration Service (US CIS) rules, forms (i.e., Form I-9, *Employment Eligibility Verification*) and instructions (Key web site: [www.uscis.gov](http://www.uscis.gov))?
7. Does the VF/EA FMS organization have written policies and procedures for reviewing and updating all applicable US Citizenship and Immigration Service (US CIS) rules, forms (i.e., Form I-9, *Employment Eligibility Verification*) and instructions (Key web site: [www.uscis.gov](http://www.uscis.gov))?

8. Does the VF/EA FMS organization have internal controls documented for monitoring the review and updating all applicable US Citizenship and Immigration Service (US CIS) rules, forms (i.e., Form I-9, *Employment Eligibility Verification*) and instructions (Key web site: [www.uscis.gov](http://www.uscis.gov))?
9. Does the VF/EA FMS organization have a system in place for reviewing and updating all applicable federal Department of Labor rules, forms and instructions related to household employers and domestic service employees pertaining to the Federal Fair Labor Standards Wage and Hour rules (Key website: [www.dol.gov](http://www.dol.gov))?
10. Does the VF/EA FMS organization have a written policies and procedures for reviewing and updating all applicable federal Department of Labor rules, forms and instructions related to household employers and domestic service employees pertaining to the Federal Fair Labor Standards Wage and Hour rules (Key website: [www.dol.gov](http://www.dol.gov))?
11. Does the VF/EA FMS organization have internal controls documented for monitoring the review and updating all applicable federal Department of Labor rules, forms and instructions related to household employers and domestic service employees pertaining to the Federal Fair Labor Standards Wage and Hour rules (Key website: [www.dol.gov](http://www.dol.gov))?
12. Does the VF/EA FMS organization, have a system in place for reviewing and updating all state income tax withholding forms, instructions and manuals related to VF/EA FMS organizations, household employers and domestic service workers and preparing, filing and depositing state taxes on behalf of individual household employers it represents at the appropriate state web sites?
13. Does the VF/EA FMS organization, have written policies and procedures for reviewing and updating all state income tax withholding forms, instructions related to VF/EA FMS organization, individual household employers and domestic service workers and preparing, filing and depositing state taxes on behalf of individual household employers it represents the appropriate state web sites?
14. Does the VF/EA FMS organization, have internal controls documented for monitoring the review and updating all state income tax withholding forms, instructions related to VF/EA FMS organization, individual household employers and domestic service workers and preparing, filing and depositing state taxes on behalf of individual household employers it represents the appropriate state web sites?
15. Does the VF/EA FMS organization, have a system in place for reviewing and updating all state unemployment insurance tax forms, instructions and manuals related to VF/EA FMS providers, individual household employers and domestic service workers and preparing, filing and depositing state unemployment insurance taxes on behalf of individual household employers it represents at the appropriate state web sites?

16. Does the VF/EA FMS organization, have written policies and procedures for reviewing and updating all state unemployment insurance tax forms, instructions related to VF/EA FMS organization, individual household employers and domestic service workers and preparing, filing and depositing state unemployment insurance taxes on behalf of individual household employers it represents the appropriate state web sites?
17. Does the VF/EA FMS organization, have internal controls documented for monitoring the review and updating all state unemployment tax forms, instructions related to VF/EA FMS organization, household employers and domestic service workers and preparing, filing and depositing state taxes on behalf of individual household employers it represents the appropriate state web sites?
18. Does the VF/EA FMS organization have a system in place for staying up-to-date with the state's new hire reporting process (paper or electronic filing options)?
19. Does the VF/EA FMS organization have written policies and procedures for staying up-to-date with the state's new hire registration process (paper or electronic filing options)?
20. Does the VF/EA FMS organization have internal controls documented for staying up-to-date with the state's new hire registration process (paper or electronic filing options)?
21. Does the VF/EA FMS organization have a system in place for staying up-to-date with state workers' compensation insurance laws pertaining to individual household employers who hire personal care and other support workers?
22. Does the VF/EA FMS organization have written policies and procedures for staying up-to-date with state workers' compensation insurance laws pertaining to individual household employers who hire personal care and other support workers?
23. Does the VF/EA FMS organization have internal controls documented to monitor its process for staying up-to-date with state workers' compensation insurance laws pertaining to individual household employers who hire personal care and other support workers?
24. Does the VF/EA FMS organization have a system in place for staying up-to-date with state mandatory disability insurance laws pertaining to individual household employers who hire personal care and other support workers, when applicable?
25. Does the VF/EA FMS organization have written policies and procedures for staying up-to-date with state mandatory disability insurance laws pertaining to household employers who hire personal care and other support workers, when applicable?

Does the VF/EA FMS organization have internal controls documented to monitor its process for staying up-to-date with mandatory disability insurance laws pertaining to household employers who hire personal care and other support workers, when applicable?

XI. **KEY TASK ELEVEN: Managing Invoices for Individual-directed Goods and Services Rendered and Included in Individuals' Service Plans and Budgets**

1. Does the VF/EA FMS organization have a system in place for receiving, verifying, processing and paying invoices for individual-directed goods and services rendered and included in individuals' individual service plans and budgets?
2. Does the VF/EA FMS organization have written policies and procedures for receiving, verifying, processing and paying invoices for individual-directed goods and services rendered and included in individuals' individual service plans and budgets?
3. Does the VF/EA FMS organization have internal controls documented and in place to monitor the receipt, verification, processing and payment of invoices for individual-directed goods and services rendered and included in individuals' individual service plans and budgets?<sup>32</sup>
4. Does the VF/EA FMS organization have a system in place for developing and maintaining a database that is effective in processing invoices for individual-directed goods and services and tracking and responding to occurrences of invoices for goods and services that cannot be paid due to missing or erroneous information?
5. Does the VF/EA FMS organization have written policies and procedures for developing and maintaining a database that is effective in processing invoices for individual-directed goods and services and tracking and responding to occurrences of invoices for goods and services that cannot be paid due to missing or erroneous information?
6. Does the VF/EA FMS organization have internal controls to monitor the development and maintenance of a database that is effective in processing invoices for individual-directed goods and services and tracking and responding to occurrences of invoices for goods and services that cannot be paid due to missing or erroneous information?

XII. **KEY TASK TWELVE: Preparing and Submitting Required Reports To PDS Program Agency, Individuals and Other Designated Individuals/Entities**

1. Does the VF/EA FMS organization have a system in place to prepare and submit the required reports to PDS program agency, individuals and other designate individuals/entities as required by the PDS Program agency?<sup>33</sup>

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<sup>32</sup> Proper segregation of tasks is a very important internal control for these tasks.

<sup>33</sup> The VF/EA FMS organization will want to identify the reports it (or its reporting agent or subagent) will produce for its, the PDS program agency, information and assistance providers, the VF/EA FMS organization and for enrolled individuals and their representatives. These requirements will vary by PDS program.

2. Does the VF/EA FMS organization have a written policies and procedures for preparing and submitting the required reports to PDS program agency, individuals and other designate individuals/entities as required by the PDS Program agency?
3. Does the VF/EA FMS organization have internal controls documented and in place to monitor the preparation and submission of required reports to PDS program agency, individuals and other designate individuals/entities as required by the PDS Program agency?

### **XIII. KEY TASK THIRTEEN: Individuals Changing VF/EA FMS Organizations at the Beginning or During a Calendar Tax Year**

When an individual changes VF/EA FMS organization in a calendar tax year a bifurcated federal and state tax year, as applicable, occurs. This is not optimum and it is highly recommended that whenever possible, individuals change VF/EA FMS organization effective January 1<sup>st</sup>.<sup>34</sup>

The transition from one VF/EA FMS organization to another often occurs in a straight forward manner for state income tax withhold and employment tax purposes since usually they are filed and paid for each individual using his/her own state income tax withholding and/or state unemployment tax account numbers.<sup>35</sup> However, the current VF/EA FMS organization must make sure to retire any state Powers of Attorney or Authorization it might have for the particular individual for SIT and SUI filing and payment purposes once all state taxes are filed and paid for the periods in which the current VF/EA FMS organization served the individual. The new VF/EA FMS organization then must make sure it obtains the necessary state Powers of Attorney or Authorization it needs for SIT and SUI to represent the applicable individual from the date that they begin performing as the individual's agent. Coordination between the current (old) and new VF/EA FMS organization is key.

A particularly thorny issue is how to manage Federal tax filings and payments and how to issue IRS Forms W-2 when two VF/EA FMS organizations process payroll for a support worker who does not earn the FICA wage threshold amount under either VF/EA FMS organization but in total earns the FICA wage threshold amount or more for the calendar year. In this situation, the two VF/EA FMS organizations need to determine who will file and pay Federal taxes for the support worker for the calendar year. One VF/EA FMS organization should file an IRS Form 941X for the appropriate period and provide the other VF/EA FMS organization with the taxes so that VF/EA FMS organization can pay FICA and FUTA for the calendar year and also issue an IRS Form W-2 for the support worker. Again

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<sup>34</sup> This means the current (old) VF/EA FMS organization processes the payroll for the last payroll that is issued for support workers in the current calendar tax year and the new VF/EA FMS organization processes payroll for the first payroll for support workers in the new calendar year.

<sup>35</sup> A small number of state departments of revenue permit the VF/EA FMS organization to obtain a special state income tax (SIT) employer registration number to file and make SIT payments on behalf of all individuals it represents as agent (for a publicly-funded PDS program(s) in the aggregate. In these states, the VF/EA FMS organization must contact the state department of revenue to determine how the transition from one agent to another must occur, particularly during a bifurcated tax year.

coordination and communication between the two VF/EA FMS organizations is key to successfully complete the tasks.

The VF/EA FMS organization must have systems in place and written policies, procedures and internal controls for the tasks they must perform when transferring an individual from one VF/EA FMS organization to another. This means the VF/EA FMS organization should have these for when they are enrolling an individual who has transferred to them from another VF/EA FMS organization and when an individual is transferring from them to another VF/EA FMS organization.

The following are tasks that a VF/EA FMS organization must perform when an individual transfers from on VF/EA FMS organization to another at the beginning of a calendar tax year.

1. Does the VF/EA FMS organization have a system and a written plan for transitioning out as the VF/EA FMS organization for the PDS program per PDS program agency requirements?
2. Does the VF/EA FMS organization have written policies and procedures for transitioning out as the VF/EA FMS organization for the PDS program per PDS program agency requirements?
3. Does the VF/EA FMS organization have internal controls documented for transitioning out as the VF/EA FMS organization for the PDS program per PDS program agency requirements?
4. Does the VF/EA FMS organization have a system and a written plan for enrolling an individual transferring from another VF/EA FMS organization per PDS program requirements?
5. Does the VF/EA FMS organization have written policies and procedures for enrolling an individual transferring from another VF/EA FMS organization per PDS program requirements?
6. Does the VF/EA FMS organization have internal controls documented for enrolling an individual transferring from another VF/EA FMS organization per PDS program requirements?

Should an individual transition from one VF/EA FMS organization to another during a calendar tax year, creating a bifurcated tax year, the VF/EA FMS organization should follow the procedure described in *Process for Filing IRS Forms 941, Forms W-2 and Refunding Over-Collected FICA for Support Workers When an Individual/ Representative-Employer Transfer from One Vendor F/EA FMS Organization to Another Within a Calendar Tax Year* prepared by Susan Flanagan at the Westchester Consulting Group on 1/30/16.